

CHAPTER 340A

LIQUOR

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340A.101 DEFINITIONS.

[For text of subds 1 to 14, see M.S.1992]

Subd. 15. **Licensed premises.** "Licensed premises" is the premises described in the approved license application, subject to the provisions of section 340A.410, subdivision 7. In the case of a restaurant, club, or exclusive liquor store licensed for on-sales of alcoholic beverages and located on a golf course, "licensed premises" means the entire golf course except for areas where motor vehicles are regularly parked or operated.

[For text of subds 15a to 24, see M.S.1992]

Subd. 25. **Restaurant.** "Restaurant" is an establishment, other than a hotel, under the control of a single proprietor or manager, where meals are regularly prepared on the premises and served at tables to the general public, and having seating capacity for guests in the following minimum numbers:

(a) First class cities	50
(b) Second and third class cities and statutory cities of over 10,000 population	30
(c) Unincorporated or unorganized territory other than in Cook, Itasca, Lake, Lake of the Woods, and St. Louis counties	100
(d) Unincorporated or unorganized territory in Cook, Itasca, Lake, Lake of the Woods, and St. Louis counties	50

In the case of classes (b) and (c) above, the governing body of a city or county may prescribe a higher minimum number. In fourth class cities and statutory cities under 10,000 population, minimum seating requirements are those prescribed by the governing body of the city.

[For text of subds 26 to 28, see M.S.1992]

Subd. 29. **Wine.** "Wine" is the product made from the normal alcoholic fermentation of grapes, including still wine, sparkling and carbonated wine, wine made from condensed grape must, wine made from other agricultural products than sound, ripe grapes, imitation wine, compounds sold as wine, vermouth, cider, perry and sake, in each instance containing not less than one-half of one percent nor more than 24 percent alcohol by volume for nonindustrial use. Wine does not include distilled spirits as defined in subdivision 9.

History: 1993 c 350 s 4-6

340A.301 MANUFACTURERS AND WHOLESALERS LICENSES.*[For text of subds 1 and 2, see M.S.1992]*

Subd. 3. **Application.** An application for a license under this section must be made to the commissioner on a form the commissioner prescribes and must be accompanied by the fee specified in subdivision 6. If an application is denied, \$100 of the amount of any fee exceeding that amount shall be retained by the commissioner to cover costs of investigation.

*[For text of subds 4 to 9, see M.S.1992]***History:** 1993 c 350 s 7**340A.302 IMPORTERS.***[For text of subds 1 and 2, see M.S.1992]*

Subd. 3. **Fees.** Annual fees for licenses under this section, which must accompany the application, are as follows:

Importers of distilled spirits, wine, or ethyl alcohol	\$420
Importers of malt liquor	\$800

If an application is denied, \$100 of the fee shall be retained by the commissioner to cover costs of investigation.

History: 1993 c 350 s 8**340A.402 PERSONS ELIGIBLE.**

No retail license may be issued to:

- (1) a person not a citizen of the United States or a resident alien;
- (2) a person under 21 years of age;
- (3) a person who has had an intoxicating liquor or nonintoxicating liquor license revoked within five years of the license application, or to any person who at the time of the violation owns any interest, whether as a holder of more than five percent of the capital stock of a corporation licensee, as a partner or otherwise, in the premises or in the business conducted thereon, or to a corporation, partnership, association, enterprise, business, or firm in which any such person is in any manner interested;
- (4) a person not of good moral character and repute; or
- (5) a person who has a direct or indirect interest in a manufacturer, brewer, or wholesaler.

In addition, no new retail license may be issued to, and the governing body of a municipality may refuse to renew the license of, a person who, within five years of the license application, has been convicted of a felony or a willful violation of a federal or state law or local ordinance governing the manufacture, sale, distribution, or possession for sale or distribution of an alcoholic beverage.

History: 1993 c 350 s 9**340A.410 LICENSE RESTRICTIONS; GENERAL.***[For text of subds 1 to 6, see M.S.1992]*

Subd. 7. **License limited to space specified.** A licensing authority may issue a retail alcoholic beverage license only for a space that is compact and contiguous. A retail alcoholic beverage license is only effective for the licensed premises specified in the approved license application.

*[For text of subds 8 and 9, see M.S.1992]***History:** 1993 c 350 s 10

340A.415 LICENSE REVOCATION OR SUSPENSION.

The authority issuing any retail license or permit under this chapter or the commissioner shall either suspend for up to 60 days or revoke the license or permit or impose a civil penalty not to exceed \$2,000 for each violation on a finding that the license or permit holder has (1) sold alcoholic beverages to another retail licensee for the purpose of resale, (2) purchased alcoholic beverages from another retail licensee for the purpose of resale, (3) conducted or permitted the conduct of gambling on the licensed premises in violation of the law, (4) failed to remove or dispose of alcoholic beverages when ordered by the commissioner to do so under section 340A.508, subdivision 3, or (5) failed to comply with an applicable statute, rule, or ordinance relating to alcoholic beverages. No suspension or revocation takes effect until the license or permit holder has been given an opportunity for a hearing under sections 14.57 to 14.69 of the administrative procedure act. This section does not require a political subdivision to conduct the hearing before an employee of the office of administrative hearings. Imposition of a penalty or suspension by either the issuing authority or the commissioner does not preclude imposition of an additional penalty or suspension by the other so long as the total penalty or suspension does not exceed the stated maximum.

History: 1993 c 350 s 11

340A.417 SHIPMENTS INTO MINNESOTA.

(a) Notwithstanding section 297C.09 or any provision of this chapter, a winery licensed in a state which affords Minnesota wineries an equal reciprocal shipping privilege may ship, for personal use and not for resale, not more than two cases of wine, containing a maximum of nine liters per case, in any calendar year to any resident of Minnesota age 21 or over. Delivery of a shipment under this section may not be deemed a sale in this state.

(b) The shipping container of any wine sent into or out of Minnesota under this section must be clearly labeled to indicate that the package cannot be delivered to a person under the age of 21 years.

(c) No person may (1) advertise shipments authorized under this section, or (2) by advertisement or otherwise, solicit shipments authorized by this section. No shipper located outside Minnesota may advertise such interstate reciprocal wine shipments in Minnesota.

(d) It is not the intent of this section to impair the distribution of wine through distributors or importing distributors, but only to permit shipments of wine for personal use.

History: 1993 c 350 s 12

340A.503 PERSONS UNDER 21; ILLEGAL ACTS.

Subdivision 1. Consumption. (a) It is unlawful for any:

(1) retail intoxicating liquor or nonintoxicating liquor licensee, municipal liquor store, or bottle club permit holder under section 340A.414, to permit any person under the age of 21 years to consume alcoholic beverages on the licensed premises or within the municipal liquor store; or

(2) person under the age of 21 years to consume any alcoholic beverages. As used in this clause, "consume" includes the ingestion of an alcoholic beverage and the physical condition of having ingested an alcoholic beverage. If proven by a preponderance of the evidence, it is an affirmative defense to a violation of this clause that the defendant consumed the alcoholic beverage in the household of the defendant's parent or guardian and with the consent of the parent or guardian.

(b) An offense under paragraph (a), clause (2), may be prosecuted either at the place where consumption occurs or the place where evidence of consumption is observed.

(c) When a person is convicted of or adjudicated for an offense under paragraph (a), clause (2), the court shall determine whether the person committed the offense

while operating a motor vehicle. If so, the court shall notify the commissioner of public safety of its determination. Upon receipt of the court's determination, the commissioner shall suspend the person's driver's license or operating privileges for 30 days, or for 180 days if the person has previously been convicted of or adjudicated for an offense under paragraph (a), clause (2).

[For text of subds 2 to 5, see M.S.1992]

Subd. 6. Proof of age; defense. (a) Proof of age for purchasing or consuming alcoholic beverages may be established only by one of the following:

(1) a valid driver's license or identification card issued by Minnesota, another state, or a province of Canada, and including the photograph and date of birth of the licensed person;

(2) a valid military identification card issued by the United States Department of Defense; or

(3) in the case of a foreign national, from a nation other than Canada, by a valid passport.

(b) In a prosecution under subdivision 2, clause (1), it is a defense for the defendant to prove by a preponderance of the evidence that the defendant reasonably and in good faith relied upon representations of proof of age authorized in paragraph (a) in selling, bartering, furnishing, or giving the alcoholic beverage.

History: 1993 c 347 s 21; 1993 c 350 s 13

340A.602 CONTINUATION.

In any city in which the report of the operations of a municipal liquor store has shown a net loss prior to interfund transfer in any two of three consecutive years, the city council shall, not more than 45 days prior to the end of the fiscal year following the three-year period, hold a public hearing on the question of whether the city shall continue to operate a municipal liquor store. Two weeks notice, written in clear and easily understandable language, of the hearing must be printed in the city's official newspaper. Following the hearing the city council may on its own motion or shall upon petition of five percent or more of the registered voters of the city, submit to the voters at a general or special municipal election the question of whether the city shall continue or discontinue municipal liquor store operations by a date which the city council shall designate. The date designated by the city council must not be more than 30 months following the date of the election.

History: 1993 c 315 s 7

340A.802 NOTICE OF INJURY; DISCOVERY BEFORE ACTIONS.

[For text of subd 1, see M.S.1992]

Subd. 2. Limitations; content. In the case of a claim for damages, the notice must be served by the claimant's attorney within 240 days of the date of entering an attorney-client relationship with the person in regard to the claim. In the case of claims for contribution or indemnity, the notice must be served within 120 days after the injury occurs or within 60 days after receiving written notice of a claim for contribution or indemnity, whichever is applicable. No action for damage or for contribution or indemnity may be maintained unless the notice has been given. If requested to do so, a municipality or licensee receiving a notice shall promptly furnish claimant's attorney the names and addresses of other municipalities or licensees who sold or bartered liquor to the person identified in the notice, if known. Actual notice of sufficient facts reasonably to put the licensee or governing body of the municipality on notice of a possible claim complies with the notice requirement.

No action may be maintained under section 340A.801 unless commenced within two years after the injury.

[For text of subd 3, see M.S.1992]

History: 1993 c 347 s 22

340A.903 [Repealed, 1993 c 350 s 27]

340A.904 SEIZED LIQUOR.

Subdivision 1. **Disposal alternatives.** Contingent on the final determination of any action pending in a court, the commissioner shall dispose of alcoholic beverages, material, apparatus, or vehicle seized by inspectors or employees of the department by:

(1) delivering alcoholic beverages to the bureau of criminal apprehension or state patrol for use in chemical testing programs;

(2) delivering on written requests of the commissioner of administration any material, apparatus, or vehicle for use by a state department;

(3) selling intoxicating liquor to licensed retailers within the state;

(4) selling any material, apparatus, or vehicle;

(5) destroying alcoholic beverages or contraband articles that have no lawful use;
or

(6) donation to a charity registered under section 309.52.

[For text of subds 2 and 3, see M.S.1992]

History: 1993 c 350 s 14