

PROHIBITION

CHAPTER 194.

[H. B. No. 114—Smith of Kidder.]

DEFINING CRIME OF BOOTLEGGING.

AN ACT Defining the Crime of Bootlegging, Fixing the Punishment Therefor, and Repealing Sections 10144 and 10145, Compiled Laws of the State of North Dakota, 1913, being Chapter 60, Session Laws, 1913.

Be it Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. BOOTLEGGING DEFINED.] Any person who shall sell or barter any intoxicating liquor upon any premises or place, public or private, within the State of North Dakota, not owned, kept, maintained or controlled by him; or, who shall act, directly or indirectly, with or without compensation, as the agent of another in connection with the purchase, or sale of intoxicating liquors; or, who shall solicit, procure or receive from any person, any order, providing for the purchase, sale or furnishing of intoxicating liquors, either for delivery from within or from without this state, except from those authorized by law to sell or barter the same within this state; or, who shall aid, assist or abet in the commission of such crime, shall be guilty of the crime of bootlegging.

§ 2. PENALTY.] Every person convicted of the crime of bootlegging shall be punished by imprisonment, shall be punished by a fine of not less than \$200.00 or more than \$1000.00, and by imprisonment in the county jail for not less than ninety days or more than one year, or by imprisonment in the State Penitentiary under an indeterminate sentence of from one year to three years; and for the second and each succeeding offense shall be punished by imprisonment in the State Penitentiary under an indeterminate sentence of not less than two or more than five years.

§ 3. Sections 10144 and 10145, Compiled Laws of the State of North Dakota, 1913, being Chapter 60, Session Laws of the State of North Dakota, 1913, are hereby repealed.

Approved, March 3, 1915.

CHAPTER 195.

[H. B. No. 265—McMillan.]

PROCEDURE IN INJUNCTIONAL CASES.

AN ACT to Amend Section 10117 of the Compiled Laws 1913 (Same being Section 9373 Revised Codes 1905) by Making More Definite the Procedure in Cases of Lease Hold Premises Held Under an Injunction; Providing a Means Whereby Innocent Owners May Cancel a Lease Thereof and Further Providing for the Continuing the Action for a Period of One Year and Increasing the Breadth of the Operation of such Injunction by Making it Personal and Apply to Clerks, Servants and Agents, and to Include any Place within the State.

Be it Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. That Section 10177 of the Compiled Laws 1913 (same being Section 9373 Revised Codes 1905) be and the same hereby is amended to read as follows:

All places where intoxicating liquors are sold, bartered or given away, in violation of any of the provisions of this Chapter, or where persons are permitted to resort for the purpose of drinking intoxicating liquors as a beverage or where intoxicating liquors are kept for sale, barter or delivery in violation of this Chapter, are hereby declared to be common nuisances; and if the existence of such a nuisance is established, either in a criminal or equitable action, upon the judgment of a court or judge having jurisdiction, finding such place to be a nuisance, the Sheriff, his deputy, or under Sheriff, or any Constable of the proper county or marshal of any city where the same is located, shall be directed to shut up and abate such place by taking possession thereof, if he has not already done so under the provisions of this Chapter and by taking possession of all such intoxicating liquors found therein, together with all signs, screens, bars, bottles, glasses and other property used in keeping and maintaining such nuisance and such personal property so taken possession of shall, after judgment, be forthwith publicly destroyed by such officer, and the owner or keeper thereof or any person who, in any manner, by using such place for the illegal purposes forbidden herein, or otherwise aids, abets, or assists in any violation of this Section or Chapter, shall, upon such conviction, be adjudged guilty of maintaining a common nuisance, and shall for the first offense be punished by a fine of not less than \$200 nor more than \$1000, and by imprisonment in the county jail not less than ninety days nor more than one year, and for the second and every successive offense be punished by imprisonment in the Penitentiary not exceeding two years and not less than one year; and said officer abating such nuisance shall securely close said building, erection or place where such nuisance was located, as against the use or occupation of the same for saloon purposes, and keep the same securely closed for the period of one year

(unless sooner released as hereinafter provided), and any person breaking open said building, erection or place, or using the premises so ordered to be closed, shall be punished for contempt, as hereinafter provided, in case of violation of injunctions; *provided*, however, that when lease hold premises are closed under a temporary injunctinal order or have been adjudged to be a nuisance, the owner thereof shall have the right to terminate the lease by giving three days' notice thereof, in writing to the tenant, and when this is done, if the said owner shall prove to the court that he was without fault, and neither knowingly, nor without knowledge negligently permitted the keeping or maintaining of the nuisance complained of, the premises shall be turned over to the owner upon the order of the court or judge as hereinafter set forth. But the release of the property shall be upon the condition that the nuisance shall not be continued, and the return of the property shall not release any lien upon said property occasioned by any prosecution of the tenant. If the owner appears and pays all costs of the proceedings and files a bond with sureties to be approved by the clerk in the full value of the property to be ascertained by the court or judge, conditioned that he will immediately abate said nuisance and prevent the same from being established or kept therein within the period of one year thereafter the court, or in vacation time the judge may, if satisfied of his good faith, order the premises taken and closed under the order of abatement, to be delivered to said owner; and if the proceeding is an action either at law or in equity and bond is given and costs therein paid, the action shall be dismissed at the end of one year from the date of the service of the temporary injunctinal order, if in an equity case, or the closing of the premises if in a criminal case; in the meantime and in either form of action the premises where such nuisance was kept and maintained, shall be regarded as being under a restraining order of the court, a violation of which will subject the violator to punishment for contempt as hereinafter provided; *provided*, however, that the release of the property under the provisions of this Section shall not release it from any judgment, lien or penalty, or liability to which it may be subject under any statute or law. *Provided*, further, that when an injunction, either temporary or permanent, has been granted, under the provisions of this Chapter, the same shall be binding personally on the defendant or defendants, throughout the entire state, and for the violation of such injunction in any place in the State of North Dakota, the offending party shall be punished as for contempt according to the rules in this Chapter prescribed.

§ 2. All Acts and parts of Acts in conflict with these amendments are hereby expressly repealed.

§ 3. An emergency having arisen in the fact that the law is insufficient to afford adequate relief when agents violate law and in case of persons owning lease hold premises, and also in cases

where parties under injunctive order continue their violation of the law elsewhere than as in the place specifically mentioned in the injunctive proceedings, therefore this Act shall take effect and be in force from and after its passage and approval.

Approved, March 12, 1915.

CHAPTER 196.

[H. B. No. 60—Lathrop.]

PROHIBITING USE OF FICTITIOUS NAME IN RECEIPTING FOR INTOXICATING LIQUOR.

AN ACT Regulating the Receiving or Receipting for Intoxicating Liquor, Prohibiting such Under Fictitious Name or Appellation, and Fixing Penalty for Violation Thereof.

Be it Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. Any person who shall receive or receipt for any intoxicating liquor not consigned to himself, or a member of his family of the age of majority, or who shall use any fictitious name or appellation and receive or receipt for intoxicating liquor thereunder shall be guilty of a misdemeanor.

Approved, March 5, 1915.

CHAPTER 197.

[H. B. No. 58—Everson.]

PEACE OFFICERS TO REPORT LAW VIOLATIONS.

AN ACT Stating the Duties of Certain County, Township, Village or Town Officials and Prescribing Penalty for Refusal or Failure to Act Thereon.

Be it Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. It shall be the duty of the State's Attorney, Assistant State's Attorney, Sheriff, Deputy Sheriff, Constable, Marshal, or police officer of any county, township, city, village, or town in the State of North Dakota, having any evidence, knowledge or notice of any violation of the prohibition, pure liquor, gambling, cigarette, snuff, pool hall, bawdy house, prostitution, white slave or habit forming drug laws of North Dakota to diligently investigate the same and seek evidence of such violation and the names of witnesses by whom such violation may be proved, and in the case of said peace officers to report the same to the State's Attorney of the county in which such violation occurs and give him every assistance in the prosecution of the violators of said laws.

§ 2. EMERGENCY.] Whereas, there is no adequate statement of the duties herein defined, now therefore an emergency is hereby declared to exist, and this Act shall take effect and be in force from and after its passage and approval.

Approved, February 18, 1915.