

INTOXICATING LIQUORS

CHAPTER 134.

[S. B. No. 85—Heckle.]

CARRYING INTOXICATING LIQUORS.

An Act Amending Section 10136 of the 1913 Compiled Laws, Making it Unlawful to Receive, Carry or Deliver any Intoxicating Liquors to or for any Person within or into this State for Any Purpose and Prescribing the Procedure for Enjoining Such Receipt, Carrying or Delivery of Intoxicating Liquors by an Action in Equity.

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

§ 1. AMENDMENT.] Section 10136 of the Compiled Laws of 1913 is hereby amended to read as follows:

§ 10136. Any officer, agent, or employe of a railroad company, express company or other common carrier or other person engaged in the dray business, livery business or any private person who shall knowingly receive, carry or deliver, directly or indirectly, any intoxicating liquors to or for any person within this state or into this state to be used in violation of any law of this state or to be used for sale, gift or barter as a beverage, or to be kept for sale, gift or barter as a beverage, shall be deemed guilty of a misdemeanor and on conviction thereof shall be fined not less than One Hundred Dollars nor more than Five Hundred Dollars and be imprisoned in the county jail not less than sixty days nor more than one hundred twenty days.

§ 2. It shall be and constitute a common nuisance for any officer, agent or employe of any railroad company, express company or other common carrier or for any person engaged in the dray business, livery business or for any private person to knowingly receive, carry or deliver directly or indirectly, any intoxicating liquors to or for any person within this state, or into this state, to be used in violation of any law of this state, or to be used for sale, gift or barter as a beverage; and if, in a criminal or equitable action, it is established and found by a court or jury that any of the acts prohibited by section one of this Act have been committed, then upon the application of the Attorney General, his assistants, or of the State's Attorney of the proper county, the district court shall issue its injunctinal order enjoining and restraining the person found guilty of having committed any of such prohibited acts from receiving, carrying or delivering directly or indirectly, any intoxicating liquors to or for any person within this state or into this state to be used for any of the purposes above mentioned and in the event that such person is the officer, agent or employe

of any railroad company, express company or other common carrier, then it shall be the duty of the district court to issue its injunctional order against such railroad company, express company or other common carrier restraining and enjoining it and all of its officers, agents or employes within this state from receiving, carrying or delivering, directly or indirectly, any intoxicating liquors to or for any person within this state or into this state for any of the purposes above specified for a period of one year from the date of the service of such injunctional order.

§ 3. The application to the district court mentioned in the preceding section shall be made in the form of a civil action in the district court in the name of the State of North Dakota and the injunction may be granted at the commencement of action in the usual manner of granting injunctions except that the complaint may be verified by the attorney general, his assistants, or the state's attorney as the case may be upon information and belief and no bond shall be required and such complaint shall contain a concise statement of the facts established in either a criminal or civil action and proofs that such acts were so established shall be prima facie evidence thereof, provided, that it shall be sufficient to maintain such action that the complaint states facts sufficient to constitute a common nuisance as defined in the foregoing section, although not previously established in a criminal or civil action.

§ 4. If in such action it shall be established that any person has committed any one or more of the acts prohibited in section one of this Act, the court shall issue its injunctional order as provided in section two of this Act to continue in force for a period of one year from the date of the service thereof and in cases where an injunctional order was issued at the commencement of the action such order shall be ordered continued in force for a period of one year from the date of its service.

§ 5. Any person violating the terms of any injunction granted in such proceedings shall be punished for contempt for the first offense by a fine of not less than One Hundred Dollars nor more than One Thousand Dollars and by imprisonment in the county jail for not less than sixty days nor more than one year, and for the second and each successive offense of contempt by imprisonment in the penitentiary not exceeding two years and not less than one year in the discretion of the court or judge thereof. In contempt proceedings arising out of the violation of any injunction granted under the provisions of this Act, the court, or in vacation, the judge thereof, shall have the power to try summarily and punish the party or parties guilty as required by law. Process shall run in the name of the State of North Dakota. The affidavits upon which the attachment for contempt issues shall make a prima facie case for the state. The accused may plead in the same manner as on information or indictment, in so far as the same is applicable. Evidence may be oral or in the form of affidavits or both; the defendant may be required to make answer to interro-

gatories, either written or oral, as in the discretion of the court or judge may seem proper; the defendant shall not necessarily be discharged upon his denial of the facts stated in the moving papers; the clerk of the district court shall, upon the application of either party, issue subpoenas for witnesses, and except as above set forth, the practice in such contempt proceedings shall conform as nearly as may be to that adopted by the nineteenth rule of the supreme court of the United States for proceedings in equity in the circuit courts.

Approved March 8, 1917.

CHAPTER 135.

[H. B. No. 388.—Walton.]

INTOXICATING LIQUORS DEFINED.

An Act to Amend and Re-enact Section 10105 of the Compiled Laws of the State of North Dakota 1913, Defining Intoxicating Liquors.

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

§ 1. AMENDMENT.] Section 10105 of the Compiled Laws of the State of North Dakota, 1913, is hereby amended to read as follows:

§ 10105. INTOXICATING LIQUORS DEFINED.] The following liquors are hereby declared to be intoxicating and their intoxicating quality shall by all courts be presumed, viz.: All spirituous, malt, fermented and vinous liquors (except unfermented grape-juice in hermetically sealed bottles), alcohol, whiskey, rum, brandy, beer, ale, porter, wine, hard cider and malt, or mixtures thereof, by whatsoever name called, or any liquor that will produce intoxication of any degree, or any liquor or liquids which are made, sold or offered for sale as a beverage and which shall contain coculus, indicus, copperas, opium, cayenne pepper, picric acid, Indian Hemp, strychnine, tobacco, dormal seed, extract of logwood, salts of zinc, copper or lead, alum or any of its compound, methyl alcohol or its derivatives, amyl alcohol or any extract or compound of any of the above ingredients, or any liquid or compound of any name or description whatever, containing no alcohol whether medicated or not, capable of being used as a beverage and having the appearance or flavor of beer or malt, unless such liquor is pasturized and contained in hermetically sealed bottles, shall be considered and held to be intoxicating liquors within the meaning of this chapter.

§ 2. EMERGENCY.] Whereas it is necessary for the immediate preservation of the public peace, health and safety that this act shall become effective without delay for the following reasons, to-wit, namely: That a great quantity of liquid having the flavor and appearance of malt is being imported into this state and being sold for use as a beverage, which liquids are contained in wooden

kegs and other receptacles not hermetically sealed, and which liquids ferment in such receptacles and by chemical reaction produce alcohol in such liquids and render them intoxicating.

Therefore, this act shall become and be in full force and effect immediately upon its passage and approval by the governor.

Approved March 16, 1917.

CHAPTER 136.

[H. B. No. 39—Bowman.]

INTOXICATING LIQUORS—REGULATIONS FOR DELIVERY.

An Act Providing Regulations for the Delivery, or Receipt and Possession for Delivery of Intoxicating Liquor, and Penalty.

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

§ 1. It shall be unlawful for any person, firm or corporation to deliver, or receive or have in its possession for delivery within this state any intoxicating liquor for any purpose whatsoever, except that such liquors may be delivered, or received or possessed for delivery by common carriers to registered pharmacists to be disposed of by them as provided by law; and unless the package or container of such liquor shall be labeled on the outside in large clear letters showing the consignor, consignee, kind and quantity, percentage of alcohol, and place of delivery; and unless those items on the label shall immediately upon receipt of such liquor be clearly and legibly entered in ink in a record book as provided by Sections 2 and 3 of this Act, with date of receipt; and unless before delivering such liquor the signature and oath of the consignee be secured and date of delivery entered; and unless such record be kept on file in his, or their local place of business for two years after delivery and kept open to inspection by any officer whose duty it is to enforce the laws, or any person authorized in writing by such officer.

§ 2. RECORD OF DELIVERY, AFFIDAVIT.] Any person, firm, or corporation delivering, or receiving or having in possession for delivery any intoxicating liquors are hereby empowered to administer the oath as required by this Act.

RECORD

Consignor.....
 Consignee.....
 Kind.....
 Quantity..... Lbs.
 Percent of Alcohol.....
 Date Received..... 19.....
 Date Delivered..... 19.....
 Place. St. & No.....
 Number Expense bill or Bill of Lading.....

AFFIDAVIT

State of North Dakota }
 County of..... } ss.

I, being first duly sworn,
 say: That I am over twenty-one years old; that my full name is

that I am the person who ordered and am the rightful consignee of
 the intoxicating liquor recorded on this page; that I am a registered
 pharmacist and conduct a drug store at Lot..... Block.....
 and Plat..... of the town, village or city of.....
 North Dakota; that this liquor is intended for sale by me as pre-
 scribed by law and will not be received, used, given away, or sold
 in violation of this Act or any law of this state.

Signed.....
 Consignee and Registered Pharmacist.

IDENTIFICATION.

State of North Dakota }
 County of..... } ss.

I, of lawful age, be-
 ing first duly sworn say; that I know this person and know him to
 be the identical consignee whose name is recorded on this page as
 consignee.

Signed.....
 Identifier.

Subscribed and sworn to before me this..... day of
 19.....

.....
 Person making delivery.

§ 3.] It is further provided that the attorney general shall
 have published record affidavit blanks identical with Section 2 of
 this Act, bound in books of 100 affidavits and page each numbered
 from 1 to 100 consecutively and each book shall bear his endorse-
 ment and official seal on the outside cover and such books shall
 be furnished at a cost equal to the actual and necessary outlay made
 therefor by him including clerk hire and postage.

§ 4.] It is further provided that any person, firm, or corpora-
 tion who shall deliver, or receive or have in possession for delivery
 any intoxicating liquor to other than a registered pharmacist, or
 who shall fail to comply with any of the provisions of this Act, or
 shall make or keep any false record, or deliver any intoxicating liquor
 without proper identification or any person who shall make or
 sign any affidavit containing any false statement, or falsely identify
 any person, or in any manner, deliver, or aid, abet, or secure the
 delivery of any intoxicating liquor to himself or any person in
 violation of this Act or the laws of this state shall be held to be
 violating this Act and shall for the first offense be deemed guilty

of a misdemeanor, and upon conviction thereof, shall be fined in any sum not less than \$200 nor more than \$1,000 and be imprisoned in the county jail not less than 90 days and not more than one year; and for the second and every successive offense shall be deemed guilty of a felony, and be punished by imprisonment in the penitentiary not exceeding two years and not less than one year.

Approved March 9, 1917.

INSURANCE

CHAPTER 137.

[H. B. No. 275—Magneson.]

ACCIDENT AND HEALTH INSURANCE COMPANIES.

An Act Requiring Assessment, Accident and Health Insurance Companies, or Associations, to make deposit with the Commissioner of Insurance.

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

§ 1. DEPOSIT.] Each foreign assessment, accident and health insurance company, or association doing business in this state on the assessment plan shall keep at all times deposited with the commissioner of insurance of this state, one regular assessment sufficient to pay the average loss or losses occurring among its members in this state during the time allowed by it for the collection of assessments and payment of losses. And no such company, or association, shall be licensed by the commissioner of insurance unless it shall keep and maintain with him for the protection of its obligations at least ten thousand dollars (\$10,000.00) in United States or North Dakota bonds, or in the bonds of some county, city or town in North Dakota, or mortgages on improved unincumbered real estate within this state, worth double the sum loaned thereon, and approved by the commissioner of insurance.

Approved March 12, 1917.