

shall be paid annually; and one for the sum of forty-nine dollars and twenty cents in payment and liquidation of the interest from the date of advances made by the governor, to the first day of February, eighteen hundred and seventy-nine, from which last date interest shall be calculated on the warrants herein provided to be issued in settlement of his claim.

§ 3. This act shall take effect and be in force from and after its passage and approval.

Approved, February 10, 1879.

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## Intoxicating Liquors.

### CHAPTER 26.

AN ACT to Regulate the Sale of Intoxicating Liquors.

*Be it enacted by the Legislative Assembly of the Territory of Dakota :*

§ 1. SELLING LIQUOR WITHOUT LICENSE UNLAWFUL.] It shall be unlawful for any person, by himself, by agent or otherwise, to sell in any quantities intoxicating liquors to be drunk in, upon, or about the premises where sold, or to sell such intoxicating liquors to be drunk in any adjoining room, building or premises, or other place of popular resort connected with said premises where sold, or to sell such intoxicating liquors for any purpose in any quantities less than five gallons, without first having obtained a license and given a bond as hereinafter provided.

§ 2. LICENSE, HOW GRANTED AND FOR WHAT TIME.] All applications for a license to sell intoxicating liquors shall be made to the board of county commissioners, and shall be granted by said board if they deem it expedient, and the applicant a proper person to engage in the same; and no license shall

run for a longer period than one year without renewal, and not for a longer period than the first Monday of the January next ensuing the date of its issue.

§ 3. LICENSE FEE—AMOUNT OF—BOND AND SURETIES—CONDITIONS.] Before any license is issued the applicant shall produce the receipt of the county treasurer showing that he has paid into the county treasury the amount fixed by the board for such license, to be at the rate of not less than two hundred dollars, nor more than five hundred dollars per year, and execute and deliver to said board his bond to the Territory of Dakota, which bond shall be in the penal sum of five hundred dollars, with at least two good and sufficient sureties, who shall on oath justify in double the penal sum of the bond, to be approved by the board of county commissioners, which said sureties shall be residents of the county, conditioned that the person applying for the license shall keep a quiet and orderly house; that he will not permit any gambling in, upon or about the premises where the intoxicating liquors are sold, or in any adjoining room, building or premises or other place of popular resort connected with said premises where sold, and shall well and faithfully keep and observe the laws of the Territory and the provisions of any ordinances or regulations of the municipality where such business shall be conducted relating to the keeping of saloons, taverns, and the sale of intoxicating liquors, and shall close his place or house of business at the hour of eleven o'clock P. M. every night. All the conditions required to be included in the bond mentioned in this section shall form and constitute a part of every such bond without being expressed therein, or if only partially set forth or referred to therein, and no such bond shall be void upon the first recovery, but it may be sued and recovered upon from time to time as herein authorized, until the whole penalty is exhausted.

§ 4. SELLING TO HABITUAL DRUNKARD. HOW PREVENTED. PENALTY FOR.] Any wife, mother, father, son, daughter, sister or other relative of a person who is in the habit of getting intoxicated, or the county commissioners or the mayor of any city or other territorial, county or municipal officer, may make complaint to any justice of the peace of the county where such person resides or may be staying, alleging the name or

names of the person or persons from whom said person having such habit obtains his liquor, as such relative or such officer believes, and thereupon said justice of the peace shall without charge therefor issue a notice in writing to such person or persons so named, notifying him or them that no intoxicating liquors of any kind must be sold or given away by him or them, or at his or their place of business, to such person having such habit, and which notice must at once be served upon such person or persons as summons are served from justice courts, and after the service of such notice if any person or persons so notified shall sell, give away or permit any person at his place of business to sell or give away any intoxicating liquors to such person about whom he or they have received notice as aforesaid, his license to sell liquor shall from that time be deemed and held to be cancelled and annulled; and said person so selling or giving away shall be fined in any sum not less than one hundred dollars and not more than five hundred dollars, and be liable in a civil action at the suit of such relative to pay him, her or them the sum of five hundred dollars damages for each offense, and no property of any kind shall be exempt from payment of such fine or damages, except property absolutely exempted.

§ 5. LICENSE WHEN REVOKED.] When any person so licensed shall be convicted of a violation of any of the provisions of this chapter or of any of the penal statutes of this Territory relating to the sale of intoxicating liquors, or shall violate any of the conditions of said bond, the board of county commissioners may, and it is hereby made their duty to revoke such license, but such revocation shall not be construed to discharge such licensee or his sureties from liability on said bond for any damage sustained by, or right accrued, to any person prior to such revocation.

§ 6. CITY AND TOWN AUTHORITIES MAY GRANT LICENSE TO CERTAIN PARTIES.] It shall be competent and lawful for any incorporated village, town or city within the county where such bond is filed and license granted to prohibit the party so licensed as well as all others, from engaging in the business of selling intoxicating liquors to be drunk in, upon or about the premises where sold, within the corporate limits, until he shall obtain from the village, town or city authorities a

license, and pay into the village, town or city treasury such sum as may be fixed by ordinance, to be not less than fifty dollars, nor more than five hundred dollars: *Provided*, That no additional bond shall be required, nor shall any license be granted by the authorities of any such village, town or city to any one who has not filed the required bond with the board of county commissioners, and obtained from such board a license: *And provided further*, That no license granted by any such incorporated village, town or city shall run for a longer period than the license granted by such board; and the revocation of the county license by the board of county commissioners shall work a revocation of any license granted under the provisions of this section.

§ 7. POWER GIVEN TO BOTH COUNTY AND TOWN AUTHORITIES TO GRANT LICENSE.] It shall be competent and lawful for both the county commissioners of any county, and also the mayor and city council, or other authorities of any incorporated village, town or city situated therein, to require the payment of the license herein provided, and the granting of the power to license or tax in any city, town or village charter shall not be held as conflicting in any way with the provisions of this act, the intention being to allow both the county and any incorporated village, town or city authorities to levy and collect a license for the sale of intoxicating liquors as herein provided, or as provided by the charter and the ordinances of such village, town or city.

§ 8. LIABILITY OF DEALER FOR INTOXICATION. LIABILITY OF INTOXICATED PERSON.] Every person who shall by the sale or giving away of intoxicating liquors, with or without a license, cause the intoxication of any other person, shall be liable for and compelled to pay a reasonable compensation to any person who may take charge of and provide for such intoxicated person during the time that care or provisions are rendered necessary, by reason of such intoxication, which sum may be recovered in a civil action before the proper court; and any person getting intoxicated as herein mentioned shall be liable to a fine not less than five nor more than twenty-five dollars.

§ 9. LIABILITY OF COMMISSIONER FOR APPROVING INSUFFICIENT BOND.] Any county commissioner who shall knowingly ap-

prove any insufficient bond required by the provisions of this act, shall be deemed guilty of a misdemeanor, and shall be liable to a fine of not less than fifty dollars nor more than two hundred dollars.

§ 10. GIVING AWAY LIQUOR, ETC., IS SELLING WITHIN MEANING OF LAW.] The giving away of intoxicating liquor, or any other shift or device to evade the provisions of this chapter, shall be deemed and held to be an unlawful selling within the provisions of the same.

§ 11. PENALTY FOR VIOLATING THIS LAW.] Every person selling intoxicating liquors in violation of the provisions of this act, or without first having complied with the requirements of the same, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than one hundred dollars nor more than three hundred dollars for each and every offense, or be imprisoned not exceeding sixty days in the county jail, or by both, in the discretion of the court.

§ 12. FINES, TO WHOM PAID. WHAT EXEMPT.] For the payment of all fines, costs, compensation and damages assessed against any person or persons in consequence of the sale of intoxicating liquors, and all fines collected under the provisions of this section, shall be paid over to the county treasurer to the credit of the school fund, as provided in this act, the real and personal property of such person or persons of every kind except property absolutely exempt from execution, where the party is the head of a family, shall be liable, and such fines, costs and damages shall be a lien upon such real property until paid, and all the furniture kept in the saloon or place of business, together with all liquors, glasses, bottles, kegs and barrels in the custody of any person selling intoxicating liquors, shall be liable to seizure and sale to pay any fine or judgment against such person so selling intoxicating liquors.

§ 13. DRUGGIST MAY SELL WITHOUT LICENSE, WHEN.] It shall be lawful for regular druggists to sell without license spirituous and vinous liquors for medicinal purposes, upon the written prescription of a physician having been in the continuous practice of medicine for the space of five years next preceding

the time of giving such written prescription, or holding a diploma from some regular medical college, who certifies in the said prescription that in his opinion as a physician the health of the party to whom the liquor is to be sold requires or would be promoted by the use of the particular kind of liquor prescribed. It shall also be lawful for such druggist to sell wines for sacramental purposes. It shall also be lawful for druggists to sell alcohol for mechanical purposes.

§ 14. SAME—MAY NOT PERMIT DRINKING ON PREMISES.] It shall be unlawful for druggists to sell spirituous, vinous or malt liquors to be drunk or to permit the same to be drunk in, upon or about the premises where sold or in any room or building connected therewith.

§ 15. SAME—PENALTY.] Any druggist violating the provisions of this act shall be guilty of a misdemeanor.

§ 16. PHYSICIAN—PENALTY FOR GIVING FALSE PRESCRIPTION.] Any physician who shall give a person or persons a prescription to obtain liquor from a druggist to enable such person or persons to evade the provisions of this act, shall be guilty of a misdemeanor.

§ 17. MINOR, UNLAWFUL TO SELL TO.] It shall be unlawful for any person or persons by agent or otherwise to sell or give away any spirituous, vinous or malt liquors to a minor or to a person who is intoxicated or who is in the habit of becoming intoxicated.

§ 18. COMPLAINTS—DUTY OF OFFICERS TO MAKE.] It is hereby made the duty of the district attorney, sheriff and all constables and all peace officers of the county or municipality, knowing of any violations of this act, to make complaint thereof to the grand jury of the next term of the district court of the county or judicial subdivision in which the offense may have been committed or to make complaint to a justice of the peace, who shall have power to bind over the offender to appear and answer at the next term of the district court.

§ 19. COUNTY CLERK TO DELIVER LIST OF LICENSED PERSONS TO GRAND JURY.] Every county clerk shall on the first day of the term of each district court deliver through the court to the grand jury an accurate list of all persons holding license under the provisions of this act within the county, which list

shall show the date and expiration of each license. Any violation of this provision of this section shall be punished by a fine of not less than five dollars nor more than fifty dollars for each and every offense.

§ 20. DUTY OF GRAND JURY.] It shall be the duty of the grand jury at each and every term of the district court in every county or judicial subdivision to make a strict inquiry and return bills of indictment against every person violating any of the provisions of this chapter.

§ 21. INTOXICATING LIQUORS DEFINED.] The words intoxicating liquors as used in this act shall be deemed and construed to include spirituous, vinous and malt liquors and all mixtures or preparations thereof including bitters that may be used as a beverage and produce intoxication.

§ 22. All acts and parts of acts in conflict with this act are hereby repealed.

§ 23. This act shall take effect and be in force after its passage and approval.

Approved, February 22, 1879.

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## Judicial Districts.

### CHAPTER 27.

AN ACT to amend Chapter Thirteen of the Political Code, relating to the Subdivision of Judicial Districts.

*Be it enacted by the Legislative Assembly of the Territory of Dakota:*

§ 1. FIRST DISTRICT SUBDIVISIONS. COURTS WHEN HELD.] The first judicial district is subdivided as follows: