

DRUGGISTS.

CHAPTER 98.

[S. B. No. 151—Taylor.]

REGULATING DRUGGISTS' PERMITS.

AN ACT to Amend Sections 7594 and 7596 of the Revised Codes of North Dakota, 1899, as Amended by Chapter 82 of the Session Laws of 1903, Relating to the Method of Obtaining Druggists' Permits to Sell Liquor, Regulating Sales of Liquor Under Such Permit and Regulating Life of Same.

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

§ 1. AMENDMENT.] That section 7594 of the revised codes of North Dakota, 1899, be, and the said section is hereby amended to read as follows:

§ 7594. DRUGGIST'S PERMITS, HOW OBTAINED. APPLICATION TO BE PUBLISHED. BOND AND APPROVAL. APPEAL.] It shall be unlawful for any person or persons to sell or barter, for medicinal, scientific or mechanical purposes any malt, vinous, spirituous, fermented or other intoxicating liquors, without first having secured a druggist's permit therefor from the county judge of the county wherein such druggist may be doing business at the time; and such county judge is hereby authorized in his discretion to grant a druggist permit for the period of one year, to any person of good moral character who is a registered pharmacist under the laws of this state, and lawfully and in good faith engaged, personally and individually, in the business of a druggist in his county, and who in his judgment can be entrusted with the responsibility of selling such liquors for the purposes aforesaid in the manner hereinafter provided. In order to obtain a druggist permit under this act, the applicant shall file in the office of the county judge of the county wherein he is doing business, not less than thirty days prior to the hearing thereof, a petition signed by the applicant and sixty per cent of the reputable freeholders, having the qualifications of electors of the town, village, township or ward of any city, and fifty per cent of the reputable women over twenty-one years of age, who are residents of the town, village, township or ward of any city wherein such business is located. All petitions shall set forth:

1. The town, village, city or township, and particular place therein wherein such business is located, and that the applicant is a person of good moral character and does not use intoxicating liquors as a beverage, and can be entrusted with the responsibility of selling the same.

2. That said applicant is a pharmacist as aforesaid, and is lawfully and in good faith engaged personally in the business of a druggist, as the proprietor thereof, at the place designated in the petition, and well versed in the profession.

3. That said applicant has, in his said business, exclusive of intoxicating liquors and fixtures, a stock of drugs and druggist's sundries, if in any city, of the value of at least two thousand dollars, and if elsewhere, of the value of at least fifteen hundred dollars.

Before any such petition shall be heard, or any permit issued to such applicant, he shall publish for at least thirty days, next prior thereto, a notice in some newspaper in the town, village, township or city, where such business is located, or if none is published therein, then in some paper of general circulation in the county, stating the time and place set by said judge for the hearing of such petition. The applicant shall be required to prove the truthfulness of each and every statement contained in such petition, and the state's attorney of the county shall, and any other citizen of the county may, appear and cross-examine the witnesses of the applicant, and may introduce evidence in rebuttal of the evidence offered by the applicant. If satisfied that the signatures of such petition were signed by such persons, and that such petitioners are freeholders and citizens of such town, village, township, city or ward as above expressed, and that the statements in such petition are true, the county judge may, in his discretion, grant a permit to the applicant to sell intoxicating liquors for medicinal, mechanical and scientific purposes only; and such permit shall be recorded upon the journal of the county court, and a certified copy thereof shall be posted in a conspicuous place in the store wherein said business is carried on before it shall be of any validity. Before such permit shall be of any validity, such druggist shall file with the county judge, to be approved by him, a good and sufficient bond to the state of North Dakota, in the sum of one thousand dollars, executed by five freeholders of the county, who shall justify in double the amount of such bond, conditioned that such applicant and any one in his employ will neither use, sell, barter or give away any intoxicating liquors in violation of law, and on violation of any of the provisions of said bond the same shall thereby become forfeited in the full amount thereof; and the conviction of said pharmacist or anyone in his employ shall be deemed prima facie evidence of such violation. Any applicant or any citizen feeling himself aggrieved by the decision of the county judge may, within ten days thereafter, upon filing a bond, made payable to the state of North Dakota, in the sum of fifty dollars, to be approved by the county judge, conditioned that he will prosecute the same to a speedy determination, and pay the costs occasioned by such appeal if the order of the county judge shall be sustained, prosecute the cause upon appeal to the district court. The procedure in any case taken on appeal to the district court from the order of the county judge shall be as prescribed by article 9, of chapter 3, of the probate code, so far as applicable, and a statement of the case with exceptions

may be made, signed and certified by the county judge. If the district court shall find that the county judge has abused his discretion, or if it deems the permit to have been improperly granted or refused, it shall have power to reverse the judgment of the lower court and cause the county judge to comply with its judgment, otherwise the order of the county judge shall be by the district court affirmed. If the order of the county judge shall be reversed, the costs shall be paid by the county. If at any time there shall be filed with the county judge a petition stating that any druggist, naming him, who has a permit to sell intoxicating liquors, is not in good faith conforming to the provisions of this chapter, verified by the affidavit of at least one of the petitioners hereinafter named, and signed by the state's attorney or ten reputable men, all of whom reside in the town, village, township or city in which the business of said druggist is carried on, requesting that the permit of said druggist be cancelled, the county judge shall immediately issue an order citing such druggist to appear before him on the day named, not more than ten days from the issuing of such order at which time the question of cancellation of such permit shall be considered. Such examination shall be conducted in the same manner in all respects as herein provided for the hearing of the original petition for granting such permit, and such county judge shall, if there are reasonable grounds for believing that such druggist is not in good faith carrying out all the provisions of this chapter, cancel such permit. An appeal may be had from the decision of the county judge to the district court as herein provided for appeals from the application for a permit; provided, the permit of such druggist shall be inoperative till such appeal is finally decided. If any county judge shall issue a permit to any person not registered as a pharmacist, or shall knowingly grant the same to a person in the habit of becoming intoxicated, or not in good faith engaged in the business of druggist as a proprietor thereof, he shall be deemed guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than five hundred dollars nor more than one thousand dollars; and if any person shall sign a petition, as provided herein, of any applicant known by such person to be in the habit of becoming intoxicated, or not in good faith engaged in the business of a druggist, he shall be deemed guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than fifty nor more than one hundred dollars. Before the petition of a druggist for a permit to sell intoxicating liquors shall be heard by the county judge, the applicant shall pay a fee of five dollars to the county judge, who shall pay the same into the county treasury on or before the first day of the following month for the benefit of the general revenue fund.

§ 2. AMENDMENT.] That section 7596 of the revised codes of North Dakota, 1899, be, and the said section is hereby amended:

§ 7596. DRUGGIST SALE REGULATED. AFFIDAVITS. OATHS. BLANKS FURNISHED. SALES RECORDED. PENALTY.] Any druggist having a permit to sell intoxicating liquors under the provisions of

this chapter, may sell the same only by himself in person, or by a clerk who is a registered pharmacist or assistant pharmacist under the laws of this state, for medicinal purposes only, upon the printed or written affidavit of the applicant, setting forth the particular medical purposes for which such liquor is required, the kind and quantity desired; that it is necessary and actually needed for the particular purpose, by the patient to be named; and that it is not intended for a beverage, nor to sell or give away; that the applicant is over twenty-one years of age; which affidavit shall be in the following form and subscribed by the applicant in ink:

No..... Date.....

State of North Dakota, county of.....ss.

I, the undersigned, do solemnly swear that my real name is.....; that I reside at.....(if in a city the street number must be given; if in a town or village, name of street must be given; if in the country the quarter section, township and range); county of..... state of.....that.....of.....is necessary and actually needed by.....to be used as a medicine for the disease of.....; that it is not intended as a beverage, nor to sell nor to give away, and that I am over twenty-one years of age. I therefore make application to.....druggist, for said liquor.

....., Applicant.

Subscribed in my presence and sworn to before me this..... day of....., 190...

....., Pharmacist.

State of North Dakota, county of.....ss.

On this.....day of.....in the year.....before me personally appeared.....known to me (or proved to me on oath of.....) to be the person who is described in and who executed the within instrument and acknowledged to me that he executed the same.

....., Pharmacist.

And such druggist may sell intoxicating liquors for mechanical, scientific, and wine for sacramental purposes only, upon the written or printed or written affidavit of the applicant, setting for the particular purpose for which such liquor is required, the kind and quantity desired, that it is not intended to be used as a beverage, not to sell nor to give away, and that it is intended only for his own use, and that the applicant is over twenty-one years of age. Such affidavit shall be in the following form and subscribed by the applicant in ink:

No..... Date.....

State of North Dakota, county of.....ss.

I, the undersigned do solemnly swear that my real name is.....; that I reside at.....(if in a city the street and number must be given, and if in a town or village the name of the street must be given; if in the country, the quarter section, township and range); county of.....state of.....; that.....of.....is required by myself to be used for.....

purposes, to be used for ; that it is not intended for a beverage, nor to sell nor to give away, and that I am over twenty-one years of age.

I therefore make application to druggist, for said liquor.
, Applicant.

State of North Dakota, county of ss.

On this day of in the year, before me personally appeared, known to me (or proved to me on the oath of) to be the person who executed the within instrument, and acknowledged to me that he executed the same.

., Pharmacist.

And there shall be but one sale, and one delivery, of not to exceed one pint of any intoxicating liquors, on any one affidavit, to any one person in each twenty-four hours, but no druggist shall permit the drinking on his premises, nor in any apartment connected therewith, and under his control, any intoxicating liquors purchased by affidavit or otherwise; provided, such druggist shall be permitted to sell any of the liquors mentioned herein, in quantities not less than one gallon, to any other druggist within the state holding a permit as provided in this chapter. The affidavits provided for in this section shall be made before the pharmacist or assistant pharmacist making sale of such liquors, upon properly printed blanks, which it is hereby made the duty of the county auditor of the county in which such sales are made, to furnish to such druggist at a cost equal to the actual and necessary outlay made therefor by him. Such blanks shall be in series of one hundred each, numbered from one to one hundred consecutively, and bound in book form, each series being of uniform style throughout, except that no two blanks of the same series shall be of the same number. It shall be the duty of the county auditor to endorse each such book with the date of delivery, and to whom made, to sign such endorsement and attest to the same with the official seal, and to keep two exact printed copies, except as to the numbers, of the blanks of each series, one of which shall be filed in his office, and one in the office of the county judge; he shall also keep a record of the series, and of the number of each series of such blanks furnished to each druggist, and shall, within ten days after the same are delivered to said druggist, file a copy thereof, together with a copy of the blank affidavits, in the office of the county judge of his county. For such services the county auditor shall be entitled to a fee of twenty-five cents for each series of blanks so furnished, to be paid by the druggist obtaining such blanks. All pharmacists and assistant pharmacists are hereby empowered to administer oaths for the purpose of this chapter, and no such affidavit shall be received by any pharmacist or assistant pharmacist until it shows on its face that it has been properly subscribed and sworn to by the applicant. The affidavits provided for in this section, shall be retained by the druggist in the original book form,

and on or before the first day of each month shall, together with the affidavit of such druggist that the liquors therein mentioned are all the intoxicating liquors sold by him during the month, except the liquors sold to other druggists, be returned intact and filed in the office of the county judge who issued the permit, where they shall be safely kept for the period of two years from the date of filing. Before said affidavit shall be received or filed by the said county judge, he shall make strict examination of the copies of the affidavits and record of numbers thereof furnished him by the county auditor, and ascertain whether such druggist has returned all affidavits furnished him in blank by the county auditor, and if any such affidavit or blank is missing said county judge shall require such druggist to file instead thereof his affidavit showing as near as he can what has become of such affidavit or blank. And any person having a permit to sell intoxicating liquors under the provisions of this chapter, shall each month, at the time he files the affidavit herein provided for, also file with the county judge an affidavit setting forth the amounts and kinds of liquors, as nearly as can be done, which such person or firm of which he is a member, has on hand on the day such affidavit is made, as well as the amounts and kinds of liquors he has purchased or procured during the preceding month, and the name or names of the persons, companies or corporations and their place of doing business, from whom, and the dates on which such liquors were purchased or procured.

For each series of affidavits filed under the provisions of this chapter, the county judge shall collect one dollar and fifty cents from the druggist filing the same, or the proportionate part thereof for the number filed, which shall be paid by him on the first day of each month into the county treasury for the benefit of the general county fund.

The county judge shall receive no fees for his services under this chapter, except a salary of fifteen dollars per annum for each one thousand inhabitants in such county, the number to be determined by the last census return of such county, but in no case shall such salary exceed in the aggregate the sum of one thousand dollars per annum, to be paid by the county commissioners as other salaries.

Every person whose affidavit so made for the purpose of obtaining intoxicating liquors shall be false in any material matter, shall be deemed guilty of perjury, and is punishable by imprisonment in the penitentiary not less than one and not exceeding two years, or in the county jail not less than six months. Any person who shall subscribe any name or character other than his own name to any affidavit for the purpose of obtaining intoxicating liquors as provided herein, shall be deemed guilty of forgery in the fourth degree, and punished therefor by imprisonment in the penitentiary not exceeding two years and not less than one year. Any person who shall sell or furnish any intoxicating liquors so obtained by him upon affidavit or certificate, to others as a beverage, or shall use the same as a beverage, shall be

deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than one hundred nor more than five hundred dollars, and by imprisonment in the county jail not less than thirty nor more than ninety days. Every such druggist shall keep a book wherein shall be recorded daily, all sales of intoxicating liquors made by him or his employes, showing the name and residence of the purchaser, the kind and quantity of liquor sold, the purpose for which it was sold, and the date of sale.

Such record and affidavit shall be open for the inspection of the public at all reasonable times during business hours, and any person so desiring may take memoranda or copies thereof.

Approved March 6, 1905.

EDUCATION.

CHAPTER 99.

[H. B. No. 251—Glasgow.]

ATTACHING OUTSIDE TERRITORY TO CITY SCHOOLS.

AN ACT to Amend Section 786 of the Revised Codes of 1899, Relating to Education.

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

§ 1. AMENDMENT.] That section 786 of the revised codes of 1899 be amended to read as follows:

§ 786. ADJACENT TERRITORY, HOW ATTACHED FOR SCHOOL PURPOSES.] When any city, town or village has been organized for school purposes and provided with a board of education under any general law, or a special act, or under the provisions of this article, territory, outside the limits thereof but adjacent thereto, may be attached to such city, town or village for school purposes by the board of education thereof, upon application in writing signed by a majority of the voters of such adjacent territory; provided, that no territory shall be annexed which is at a greater distance than three miles from the central school in such special district, except upon petition signed by two-thirds of the school voters residing in the territory which is at a greater distance than three miles from the central school in such special district; and, upon such application being made, if such board shall deem it proper and to the best interests of the school of such corporation and of the territory to be attached, an order shall be issued by such board attaching such adjacent territory to such corporation for school purposes, and the same shall be entered upon the records of the board. Such territory shall from the date of such order be and compose a part of such corporation for school purposes only;