

§ 4. All laws and parts of laws in conflict with any of the provisions of this act are hereby repealed.

§ 5. If any provision in this act, or the application thereof to any person, corporation or circumstance, is held invalid, the remainder of the act, and the application of such provision to other persons, corporations or circumstances, shall not be affected thereby.

§ 6. EMERGENCY.] Whereas, an emergency exists in that it is necessary that building and loan associations and other home financing organizations be in a position to take advantage of and comply with the requirements of the laws of the United States relating to the subject matter covered by this act. This act is hereby declared to be an emergency measure and shall be in full force and effect from and after its passage and approval.

Approved March 13, 1935.

BEER

CHAPTER 97

S. B. No. 195—(Drew, Trout and Gronvold)

BEER SALES—POWERS AND DUTIES BEER COMMISSIONER, GOVERNING BOARDS CITIES AND VILLAGES, ETC.

An Act to amend and re-enact Sections, 3, 5, 7, 8, and 11 of the Initiated Measure entitled "An Act Providing for the Manufacture and Sale, within the State, of Beer, as defined by the Congress of the United States, making regulations under which the same may be done, providing a revenue therefrom, and repealing Senate Bill No. 263, passed by the 23rd Legislative Assembly of the State of North Dakota, and all other acts or parts of acts in conflict with the provisions of this Act." approved by the people of the State of North Dakota at the Special Election held on the 22nd day of September, 1933, relating to the manufacture and sale of beer, and declaring an emergency.

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

§ 1. AMENDMENT.] Section 3 of the Initiated Measure for the manufacture, sale and distribution of beer, enacted and approved September 22, 1933, is hereby amended and re-enacted to read as follows:

§ 3. BEER COMMISSIONER—POWER AND DUTIES.] There is hereby established for the purpose of carrying out the provisions of this act, an officer to be known as the State Beer Commissioner of the State of North Dakota, whose duty it shall be to license all persons, firms, corporations, partnerships and associations, who may desire to engage in the sale of beer, either wholesale or retail, and such officer shall be appointed by the Governor of the state, and

shall hold his office for a period of two years, unless re-appointed for a similar term or terms. Such officer may be, in the discretion of the Governor, the State Regulatory Officer of the State of North Dakota, as now constituted. Such officer shall, before licensing any person, firm, corporation, partnership, or association, require such applicant to submit, in writing, such information as said Commissioner shall deem necessary to insure the sale of beer by reputable persons, of good moral character. The Commissioner shall have power to refuse a license to any person applying therefor, on the ground that such applicant does not have the qualifications required by this act, and shall have power to revoke any license upon discovery that any of such qualifications is lacking, or has ceased, or for violation of the terms of this act or of the liquor laws of the State of North Dakota. But the decision of the Commissioner, relative to the refusing or revoking a license, shall always be subject to review by the courts of this state; provided, however, that to obtain a review, the party aggrieved shall furnish a bond in an amount to be set by the Judge of the District Court for the faithful observation of the laws of the State of North Dakota, relative to the operation of the business licensed during the pendency of the appeal.

§ 2. AMENDMENT.] That Section 5 of the Initiated Measure for the manufacture, sale and distribution of beer, enacted and approved September 22, 1933, be amended and re-enacted to read as follows:

§ 5. FEES FOR LICENSE.] The minimum state fee for retail license to sell beer in this state shall be the sum of \$50.00 per year, and the maximum shall be \$100.00 per year to be collected by said Commissioner and turned over to the Treasurer of the State of North Dakota. License fees for the retailing of beer shall be as follows:

Each place in rural districts or in towns, villages or cities of less than 500 population	\$ 50.00
Each place in towns, villages or cities over 500 population	\$100.00

The license fee so paid shall cover a year beginning with October 23rd of one year and running until October 22nd of the next, both dates inclusive. No reduction in fees shall be granted because application is granted or license issued during such license year.

§ 3. AMENDMENT.] Section 8 of the Initiated Measure for the manufacture, sale and distribution of beer, enacted and approved September 22, 1933, is hereby amended and re-enacted to read as follows:

§ 8. DELEGATION OF POWER TO INCORPORATED CITIES AND VILLAGES AND BOARD OF COUNTY COMMISSIONERS WITH REFERENCE TO BEER LICENSES.] There is hereby conferred upon the governing bodies of each incorporated city and village the authority to require

licenses from retailers of beer in such village or city, and to license, and to deny and revoke licenses for cause, and to regulate the business of vendors at retail of beer authorized to be sold by this act, in their respective jurisdictions, subject to review by the Courts of the State, to impose and collect a license fee therefor, and to provide for the punishment of any violation of any such regulations, according to the provisions of law, excepting that such regulations shall be uniform, and that all applicants for license, who are qualified under Section 2 of this act, shall be granted licenses by said municipalities.

There is hereby conferred upon the board of county commissioners of each county the same powers and authority as are herein granted to the governing boards of incorporated cities and villages, relative to the retailing of beer in all territory outside of incorporated cities and villages.

It shall be unlawful for any place licensed to retail beer in all territory outside of incorporated cities and villages, to sell, give away, or permit to be consumed in any such place any beer or beverage authorized to be sold under the provisions of this act between the hours of two o'clock A. M. and seven o'clock A. M.

Any person violating the provisions of this act relative to the hours permitted for the sale of beer shall be guilty of a misdemeanor and shall be punished by a fine of not less than ten dollars (\$10.00) and not more than one hundred dollars (\$100.00) or by imprisonment in the county jail for not more than thirty days or by both such fine and imprisonment, and in addition thereto the license shall be revoked. It shall be the duty of the states attorney, the sheriff, his deputies and all police officials to rigidly enforce all the provisions of this act, and their failure so to do shall be sufficient grounds for their removal from office.

§ 4. AMENDMENT.] Section 11 of the Initiated Measure for the manufacture, sale and distribution of beer, enacted and approved September 22, 1933, is hereby amended and re-enacted to read as follows:

§ 11. WHOLESALERS AND DISTRIBUTORS AUTHORIZED TO DISTRIBUTE BEER. LICENSE AND RESTRICTIONS.] Any person, firm, corporation, partnership, or association regularly engaged in legitimate wholesale business within the state may be licensed to distribute beer by wholesale. They shall be licensed for that purpose by the State Beer Commissioner upon submitting to said Commissioner an application in writing, on such forms as the Commissioner shall require, showing such information as shall be required to bring them under the provisions of this act. Each said distributor shall pay a wholesaler's license fee of \$200.00 to be collected by the Commissioner and paid to the State Treasurer. No distributor, licensed to do business in this state, shall ever be licensed to retail the sale of beer within the state, in quantities less than a case. No applicant for wholesaler's or distributor's license shall be eligible therefor, unless the applicant

has established both a warehouse for handling the beer under such license and a bona fide office in which is kept a complete set of records, correspondence and files relative to all beer transactions, within the State of North Dakota.

§ 5. AMENDMENT.] That Section 7 of the Initiated Measure for the manufacture, sale, and distribution of beer, enacted and approved September 22, 1933, is hereby amended and re-enacted to read as follows :

§ 7. BREWERIES MAY BE ESTABLISHED WITHIN THE STATE.] Any person, firm, corporation, partnership or association, shall have the right to establish within the state, a brewery for the manufacture of beer as defined herein, upon making an application and paying to said Commissioner a license fee of \$500.00 per annum, to be paid to the Treasurer of the State of North Dakota. Said license shall also entitle said brewery to sell its manufactured product to duly licensed wholesale dealers or jobbers regularly engaged in legitimate wholesale business as in this act defined. Provided, however, that no brewer, domestic or foreign, operating within or without the state, shall be licensed to operate or conduct, directly or indirectly, either in the name of the brewery or as a subsidiary or through any of its officers, agents or employees, branch or distributing office, as a wholesale dealer in this state. Provided further that no brewery operating within or without the state shall be licensed to engage in the retail sale of beer within the state.

§ 6. SAVING CLAUSE, REPEAL.] If any provisions of this act shall be held invalid, the other provisions therein shall not be affected, and the law now in force relating to the same subject shall continue in full force and effect. Provided, that any act or parts of acts in conflict with any of the provisions of this act are hereby expressly repealed.

§ 7. EMERGENCY.] This act is hereby declared to be an emergency and shall be in full force and effect from and after its passage and approval.

Approved March 12, 1935.

CHAPTER 98

S. B. No. 304—(Committee on Taxes and Tax Laws)

BEER TAXES

An Act to amend and re-enact Section Six (6) of that certain initiated law adopted by the voters of the State of North Dakota at the special election held September 22, 1933, entitled as follows: "An Act defining and providing for the manufacture, sale and distribution of beer, providing revenue therefrom, and licenses therefor, prohibiting the transfer of licenses, excluding certain persons from the right to purchase the same, appointing a State Beer Commissioner and defining his powers, duties, and salary; authorizing cities,

villages and county commissioners to provide a local tax and prescribe rules and regulations under which beer may be sold and authorizing municipalities to provide penalties for violation of their regulations; providing for the administrative expense of this act; making it unlawful for any person to engage in the manufacture or sale of beer without first obtaining a license therefor; providing a penalty for the violation of the provision thereof; providing for a saving clause as to constitutionality; and repealing Senate Bill No. 263 passed by the 23rd Legislative Assembly of the State of North Dakota, and all acts or parts of acts in conflict with this act, and making an appropriation to carry out the provisions hereof," and declaring an emergency.

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

§ 1. AMENDMENT.] That Section Six (6) of said initiated law be and the same is hereby amended and re-enacted to read as follows:

§ 6. ADDITIONAL STATE REVENUE—THE AMOUNT THEREOF AND HOW COLLECTED.] From and after the taking effect of this act there is hereby levied and assessed and there shall be collected and paid to the State Treasurer upon all beer sold in North Dakota to consumers, the following taxes, to be paid prior to the sale and delivery thereof to the consumer and at the time said beer is delivered to the retailer; on each pint of beer in bottles or other container, one cent; on each quart of beer in bottles or other containers, two cents; on each gallon of beer, in kegs or other containers, eight cents. All beer sold in this state shall be put up in bottles, kegs or other containers, so that stamps can be affixed thereto in the manner herein-after provided, the stamps representing the payment of said tax shall be provided by the Commissioner and purchased from him. The proceeds of the sale of such stamps to be turned over to the Treasurer of the State of North Dakota, and such stamps shall be affixed to the bottles, kegs or other containers containing said beer in such manner that the opening of the container breaks the stamps, thereby preventing the use of the stamp a second time; provided, however, that the net amount of monies received and collected under this act between the effective date hereof and the first day of April, 1937, after the payment of the expenses of administering this act, shall be credited, by the State Treasurer to the Real Estate Bond Interest Payment Fund provided for and established by Chapter 182 of the Session Laws of 1929, and the State Board of Equalization shall consider and include the payments made hereunder, in determining the necessity for the making of any levy as provided and required by said Chapter 182.

§ 2. EMERGENCY.] Whereas, the additional revenue provided for herein is necessary for the objects and purposes set forth, therefore an emergency is hereby declared to exist and this act shall be in full force and effect from and after its passage and approval.

Approved March 13, 1935.

CHAPTER 99

H. B. No. 363—(Committee on Delayed Bills)

SALE BEER COMMISSIONER AUTOMOBILES, ETC., BY BOARD OF ADMINISTRATION

An Act directing the Board of Administration of the State of North Dakota to sell, at public auction or private sale, automobiles and automobile equipment purchased by the Beer Commissioner of the State of North Dakota; authorizing said board to demand, receive and take possession of such property; directing Attorney General to institute suits or proceedings at request of Board of Administration; permitting deduction of costs and expenses connected with said sale; providing for disposition of balance of the receipts and requiring report to Governor; repealing acts in conflict and declaring an emergency.

WHEREAS: The Beer Commissioner of the State of North Dakota, by virtue of authority granted under the provisions of that certain initiated measure creating the office of Beer Commissioner did purchase a number of automobiles and certain automobile equipment, and

WHEREAS: The conditions which prompted the purchase of said cars no longer exists:

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

§ 1. Immediately upon taking effect of this act the Board of Administration of the State of North Dakota is hereby directed to take possession of automobiles and automobile equipment purchased by the Beer Commissioner of the State of North Dakota under authority granted such Commissioner in that certain measure initiated by the people of this state creating the office of Beer Commissioner, the use of which is not required by the State Regulatory Department in the enforcement of the provisions of the initiated measure hereinbefore referred to, and fixing his powers and duties, and for that purpose, and for the purpose of carrying out the provisions of this act, said Board of Administration is hereby authorized and empowered to employ such assistance as may be necessary, and, in the name of the board, to make demand upon all persons, firms or corporations, and upon all state officials or employees, in possession of any of said automobiles, or any part of said equipment, and may enforce such demands by instituting such actions or proceedings as shall be found necessary; it being hereby declared to be the duty of the Attorney General of this state to institute such actions or proceedings upon the request of the board.

§ 2. Immediately upon receiving said automobiles, or any of them or any part of said equipment, the board shall, with the least possible delay, proceed to sell said property, either at private sale or public auction and upon such notice as the board shall determine

upon. Such sales shall be fairly conducted to the end that the highest possible price may be obtained for the property sold.

§ 3. The proceeds from the sales to be made under the provisions of this act shall be disposed of in the following manner:

(a) In paying costs and expenses of the Board of Administration in taking possession of and selling the property.

(b) The balance of the proceeds to be paid to the State Treasurer to be by him received and disbursed in the manner and form provided for receipt and disbursement of other funds under the initiated measure herein referred to.

§ 4. As soon as the property herein referred to has been sold the Board of Administration shall make a full, complete, itemized and detailed statement and report of its actions and proceedings to the Governor, and shall serve a copy of such report and statement upon the Beer Commissioner.

§ 5. REPEAL.] All acts and parts of acts in conflict herewith are hereby repealed.

§ 6. EMERGENCY.] Whereas the property referred to in this act is no longer being used for the purposes for which the same was purchased, and said property is depreciating in value very rapidly, therefore an emergency is hereby declared, and this act shall be in full force and effect from and after its passage and approval.

Approved March 12, 1935.

CHIROPODY .

CHAPTER 100

H. B. No. 8—(Morgan)

DEFINING CHIROPODIST, LICENSE

An Act to amend and re-enact Sections 2 and 8 of Chapter 95, Session Laws of 1929: "An act to regulate the practice of chiropody, to create a State Board of Chiropody, to provide for the examination and licensing of chiropodists and providing penalties for the violation thereof."

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

§ 1. AMENDMENT.] That Section 2 of Chapter 95 of the Session Laws of 1929 is hereby amended and re-enacted to read as follows:

§ 2. For the purpose of and within the meaning of this Act, a chiropodist is defined as one who examines, diagnoses and treats abnormal nail conditions, excrescences occurring on the feet, includ-