

INITIATED MEASURES

MANUFACTURE, SALE AND DISTRIBUTION OF BEER

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 expenses 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.

Be It Enacted by the People of the State of North Dakota:

§ 1. BEER—DEFINITION.] The term beer as used in this act shall be construed to be of such alcoholic content as is now or may be hereafter defined by the Act of Congress of the United States.

§ 2. SALE WITHIN THE STATE—WHO SHALL SELL.] Any person, firm, or corporation, partnership or association, having a legal and bona fide residence in, and being a citizen of, the State of North Dakota and engaged in any legitimate and lawful business, may engage in the retail sale of beer as described herein under such restrictions as are hereinafter provided.

§ 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 bill

but the decision of the Commissioner in this respect shall always be subject to review by the courts of the state.

§ 4. COMMISSIONER'S SALARY AND REMOVAL.] The Beer Commissioner of the State of North Dakota shall be paid a salary of \$3,500.00 per annum, and necessary traveling expenses, while engaged in the duties of his office. Said Commissioner may be removed by the Governor, at any time, and without cause.

§ 5. FEES FOR LICENSE.] The minimum state fee for a retail license to sell beer in this State shall be the sum of \$15.00 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. For the license fee for the first year of doing business of retailing beer, the applicant for such license shall pay a license within the above mentioned limits, which fee for said first year shall be determined by the Commissioner and be based upon the probable volume of business which said applicant is likely to do during said year, and that for any renewals of said license or for license for years succeeding the first year, the amount of such license fee, within the above mentioned limits, shall be based upon the volume of beer retailed by such applicant during the preceding year; provided, however, that the license fee to be paid to the state for the first year shall in all cases be in the sum of \$100.00, except in cities and villages (whether incorporated or not) having a population of less than 500 inhabitants, and in such places the minimum fee shall be \$15.00 and no greater sum than \$50.00 in the discretion of the Commissioner.

§ 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-half cent; on each quart of beer in bottles or other containers, one cent; on each gallon of beer, in kegs or other containers, four 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 hereinafter 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.

§ 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 and wholesaling of beer as defined herein, upon making an application and paying to the said Commissioner a license fee of \$500.00 per annum, to be paid to the Treasurer of the State of North Dakota. Provided, however, that no brewery operating within or without the state shall be licensed to engage in the retail sale of beer within the state.

§ 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 Two of this act, shall be granted licenses by said municipalities.

There is hereby conferred upon the Board of County Commissioners in each county the same powers and authority as are herein granted to the governing boards of incorporated cities and villages, provided, however, that the Board of County Commissioners shall not grant or issue any license, or exercise any regulation or control except in unincorporated villages now in existence, the plats of which are now of record.

§ 9. SALES TO CERTAIN PERSONS UNLAWFUL.] No retailer or wholesaler of beer, or any brewery established within this state, shall be permitted under the provisions of this act to sell beer to a minor, incompetent person, Indian as defined by Federal Law, or a person who is an inebriate or habitual drunkard.

§ 10. ADMINISTRATIVE EXPENSE HOW PAID — APPROPRIATION.] The salary of the State Beer Commissioner, all office and other administrative expenses, all supplies, stationery, the printing of stamps and certificates shall be paid by the State Treasurer out of the revenue derived from the operation of this act, upon proper vouchers filed by the State Beer Commissioner. It being the purpose of this act to relieve the general fund of the state from any and all costs in connection with the administration of the provisions thereof; provided, however, that there is hereby appropriated out of the general fund of the state, not otherwise appropriated, the sum of \$1,000.00 to carry out the provisions of this act.

§ 11. WHOLESALERS AND DISTRIBUTORS AUTHORIZED TO DISTRIBUTE BEER. LICENSE AND RESTRICTIONS.] Any person, firm, cor-

poration, 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.

§ 12. TRANSFER OF LICENSES PROHIBITED.] No license issued by the State Beer Commissioner shall be transferable, and any attempt to do so shall constitute a violation of the provisions of this Act.

§ 13. LICENSES—LIMITED.] No license to sell beer by retail or wholesale shall entitle the holder thereof to carry on said business at more than one location under any one license, and each license issued shall contain the legal description of the place where the holder thereof operates his said business.

§ 14. REPEAL OF CONFLICTING LAWS.] Senate Bill No. 263, passed by the 23rd Legislative Assembly of the State of North Dakota, relating to the sale of legalized beer, and all other acts or parts of acts in conflict with the operation of the provisions of this act are hereby repealed.

§ 15. SAVING CLAUSE AS TO CONSTITUTIONALITY.] The object sought by this enactment is to provide for the sale and regulation of beer in the State of North Dakota, and it is hereby declared that if any provision of this act in any manner controverts the provisions of the Constitution of this state, that the remaining provisions would have been enacted by the people even though such provision had been eliminated from the act. Hence, if any of the provisions are found to be in violation of the Constitution, the remaining provisions shall not be affected by such invalidity, but shall remain in full force and effect.

§ 16. UNLAWFUL TO MANUFACTURE OR SELL BEER—WHEN.] It shall be unlawful for any person to engage in the manufacture or sale of beer, as defined herein within this state, without first obtaining a license so to do as provided herein.

§ 17. PENALTY.] Any person violating the provisions of this act shall be guilty of a misdemeanor and upon conviction therefor shall be punished by a fine of not less than one hundred (\$100.00), nor more than one thousand dollars (\$1,000.00), or imprisonment in the county jail, for a period of not more than six months, or both;

for a second offense, the same penalties shall be assessed, and in addition thereto the license of the offender shall be revoked.

Approved, September 22, 1933. 116420 to 48731.

SUNDAY THEATRES AND MOVIES

An act to permit the operation of moving picture theatres, and showing moving pictures and other theatrical performances in said theatres, on Sundays, after two p. m., for profit or otherwise, and permitting labor and services in connection therewith on Sundays, and repealing all acts or parts of acts in conflict with this act.

Be It Enacted by the People of the State of North Dakota:

§ 1. **LAWFUL ACTS ON SUNDAY.]** The operation of moving picture theatres, and showing moving pictures and other theatrical performances in said theatres, on Sundays after the hour of two p. m., for profit or otherwise, and the labor performed and services rendered in operating said theatres, and showing said moving pictures and theatrical performances in said theatres, on Sundays, for profit or otherwise, is hereby declared to be lawful.

§ 2. **REPEAL.]** All acts or parts of acts in conflict with the provisions of this act are hereby repealed.

Approved, November 6, 1934. 136743 to 135073.

SUNDAY THEATRES AND MOVIES

An Act to permit the operation of moving picture theatres, and showing moving pictures and other theatrical performances in said theatres, on Sundays, after Two p. m., for profit or otherwise, and permitting labor and services in connection therewith on Sundays, and repealing all acts or parts of acts in conflict with this act.

Disapproved, September 22, 1933. 82235 to 81453.

CONTROL INTOXICATING LIQUOR

An Initiated Measure providing for the lawful importation, transportation, sale, use and possession in this state of intoxicating liquor and of beer containing not to exceed 5.5 per cent of alcohol by weight, and defining words and terms employed in the law and commodities not applicable to the law or exempt therefrom; prohibiting the establishment or maintenance of saloons or the manufacture, sale or distribution of bootleg liquor; diverting into the local and State Treasuries the legitimate tax revenues from the sale of intoxicating liquor now taken from the people by bootleggers and others violating existing liquor laws; providing for the control, licensing, taxation, regulation, and administration of the traffic in intoxicating liquor in this state and those engaged or participating therein or affected

thereby; providing certain prohibitions, restrictions and exemptions respecting intoxicating liquor; restricting the sale of intoxicating liquor to the business districts of municipalities except certain club licenses and granting certain powers to municipalities in regulating traffic in intoxicating liquor and those participating therein; prohibiting unlicensed importation, sale, exchange, barter, disposition or possession for sale of any intoxicating liquor except as provided in such initiated measure; setting up a uniform system for the licensed selling of intoxicating liquor within the limits and under the conditions set forth in such initiated measure; creating the office of Liquor Control Commissioner, defining his powers and duties, and fixing his salary and establishing a system for the administration of the law; providing for the licensing of certain dealers in intoxicating liquor; fixing schedules of license fees and taxation of liquor sales and the disposition of such revenues; providing for the enforcement of such law and penalties for its violation; repealing all conflicting laws, including Sections 10092, 10093, 10094, 10095, 10096, 10097, 10098, 10099, 10100, 10101, 10102, 10103, 10104, Compiled Laws 1913, 10105 Compiled Laws 1913; as amended by Section 10105 Supplement to Compiled Laws 1913; 10105a Supplement to Compiled Laws 1913; 10106, 10107, 10108, 10109, 10110, 10111, 10112, 10113, 10114, 10115, 10116, Compiled Laws 1913; 10117 Compiled Laws 1913 as amended by Section 10117 Supplement to Compiled Laws 1913; 10117a Supplement to Compiled Laws 1913; 10118, 10119, 10120, 10121, 10122, 10123, 10124, 10125, 10126, 10127, 10128, 10129, 10130, 10131, 10132, 10133, 10134, 10135 Compiled Laws 1913; 10136 Compiled Laws 1913, as amended by Section 10136 Supplement to Compiled Laws 1913; 10136a1, 10136a2, 10136a3, 10136a4 Supplement to Compiled Laws 1913; 10137, 10138, 10139, 10141, 10142, 10143 Compiled Laws 1913; 10140a, 10141 Supplement to Compiled Laws 1913; 10143a1, 10143a2 Supplement to Compiled Laws 1913; 10144 Compiled Laws 1913, as amended by Section 10144 Supplement to Compiled Laws 1913; 10145 Compiled Laws 1913; 10145 Supplement to Compiled Laws 1913; 10145a1, 10145a2, 10145a3, 10145a4 Supplement to Compiled Laws 1913; 10145b1, 10145b2, 10145b3, Supplement to Compiled Laws 1913; 10145b4 Supplement to Compiled Laws 1913 as amended by Chapter 174 Laws 1931; 10145b5, 10146b6, 10145b7, 10145b8, 10145b9, 10145b10, 10145b11, 10145b12, 10145b13, 10145b14, 10145b15, 10145b16, 10145b17, 10145b18, 10145b19, 10145b20, 10145b21, 10145b22, 10145b23, 10145b24, 10145b25, 10145b26 Supplement to Compiled Laws 1913; 10146, 10147, 10148, 10149, 10150, 10151, 10152, 10153, 10154 Compiled Laws 1913; 10170, 10171, 10172, 10173, 10175 and 10176 Compiled Laws 1913 and Chapter 141, 1933 Session Laws, Chapter 97, 1921 Session Laws, Chapter 268, 1923 Session Laws, Chapters 195 and 196, Session Laws of 1915, Chapters 134, 135 and 136, 1917 Session Laws, Chapter 175, 1925 Session Laws; also Chapter 221, 1923 Session Laws so far as it applies to intoxicating liquor.

Disapproved, June 27, 1934.

119968 to 88079.

LOCAL OPTION AND ANTI-MONOPOLY LIQUOR CONTROL

An Initiated measure legalizing the importation, transportation, sale and possession and manufacture in certain cases, of liquor; providing for revenue therefrom and licenses therefor; prohibiting the transferring of licenses; excluding certain persons from the right to purchase liquor; authorizing the governing bodies of municipalities to provide and require the payment of a local tax or license

and to raise revenue hereunder; and to prescribe certain regulations; providing for the administrative expenses of this act; making it unlawful for any person to engage in the manufacture or sale of liquor without first obtaining a license therefor; providing a penalty for the violation of the provisions thereof; providing for a saving clause as to constitutionality; repealing all acts in conflict therewith; defining liquors; authorizing distilleries under certain conditions; providing for a Local Option and the right of the people in each municipality, at certain elections, to vote on the question of continuing the legalized sale of liquor in such municipality; limiting place of sale; disposition of liquor revenue funds and allotment of portions thereof to School Districts; appropriating state funds to put this act in operation; legalizing 5, 5% beer.

Disapproved, June 27, 1934. 114299 to 90076.

LARGER LOCAL CONTROL AND LOCAL OPTION IN PROVIDING SUPPORT OF MINIMUM EDUCATIONAL FACILITIES

An Act to amend and re-enact Section 7 of Chapter 235 of the Laws of North Dakota for the year 1929 as amended by Chapter 297 of the Laws of North Dakota for the year 1931, relating to the levy of school taxes and the limitations thereof, to permit governing boards of school districts to make an annual tax levy for school purposes in an amount sufficient to provide each school district with seventy (70) dollars annually for each child enrolled in the school or schools of each school district, to provide for the exercise of option on the part of governing boards of school districts in the mode of determining tax levy, to define enrollment, to provide for the filing of sworn statements of enrollment, and to provide for the repeal of all acts and parts of acts in conflict with this act.

Disapproved, June 27, 1934. 99299 to 91391.

REPEAL PROHIBITION STATUTES

An Act to repeal Sections 10092 to 10104 both inclusive, Compiled Laws of 1913; 10105 Compiled Laws 1913, as amended by Section 10105 Supplement to Compiled Laws 1913; 10105a Supplement to Compiled Laws 1913; 10106 to 10116 both inclusive, Compiled Laws 1913; 10117 Compiled Laws 1913 as amended by Section 10117 Supplement to Compiled Laws 1913; 10117a Supplement to Compiled Laws 1913; 10118 to 10135 both inclusive, Compiled Laws 1913; 10136 Compiled Laws 1913 as amended by Section 10136 Supplement to Compiled Laws 1913; 10136a1 to 10136a4 both inclusive, Supplement to Compiled Laws 1913; 10137 to 10143 both inclusive, Compiled Laws 1913; 10140a to 10141 Supplement to Compiled Laws 1913; 10143a to 10143a2 Supplement to Compiled Laws 1913; 10144 Compiled Laws 1913, as amended by Section 10144 Supplement to Compiled Laws 1913; 10145 Compiled Laws 1913 and 10145 Supplement to Compiled Laws 1913; 10145a1 to 10145a4 both inclusive, Supplement to Compiled Laws 1913; 10145b1 to 10145b3 both inclusive; 10145b4 Supplement to Compiled Laws 1913 as amended by Chapter 174 Laws of 1931; 10145b5 to 10145b26 both inclusive, Supplement to Compiled Laws 1913; 10146 to 10154 both inclusive, Compiled Laws 1913; 10170 to 10173 both inclusive, Compiled Laws 1913; 10175 and 10176 Compiled Laws 1913.

Disapproved, November 6, 1934. 139733 to 111511.