

ably necessary or appropriate for or incidental to the effectuation of its authorized purposes, and generally to exercise in connection with its property and affairs and in connection with property within its control any and all powers which may be exercised by a private corporation in connection with similar property and affairs.

ARTICLE VIII

All costs incident to the construction, control, maintenance and operation of any project shall be allocated by the Commission to benefitted taxing units, which are authorized and directed to levy taxes at such times as authorized by law and in such amounts as to pay such costs in full within two years after such allocation. Such costs may be estimated and allocated in advance of expenditures subject to proper allowances in subsequent allocations in so far as actual expenditures may vary from estimates.

ARTICLE IX

Should any part of this compact be held to be contrary to the constitution of the State of North Dakota or of the United States such part of said compact shall become inoperative as to the State of North Dakota but all other severable provisions of this compact shall continue in full force and effect.

ARTICLE X

EMERGENCY.] This Act is hereby declared to be an emergency measure and shall take effect from and after its passage and approval.

Approved March 10, 1937.

INITIATED MEASURES

CHAPTER 259 LIQUOR CONTROL ACT

An Act to authorize, regulate, and control the transportation, importation, handling, possession, purchase, sale and dispensing of alcohol, and alcoholic beverages in the state of North Dakota; defining alcoholic beverages, providing the method of taxing and licensing the same, providing the manner of expending and distributing the revenues from such licenses and taxes; providing penalties for violations of the provisions of said Act, providing for a saving clause as to the constitutionality of any part of the Act; and repealing all Acts and parts of Acts in conflict therewith.

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

§ 1. This Act shall be known as the Liquor Control Act.

§ 2. Alcohol, and alcoholic beverages mean and include any alcoholic, spirituous, vinous, fermented, malted, or other liquor which contains more than four percentum (4%) of alcohol by weight.

§ 3. Alcohol and alcoholic beverages, as defined by Section two herein, may be imported, transported, possessed, purchased, and sold in the State of North Dakota, in the manner and under the conditions set forth in this Act.

§ 4. Any person having a legal and bona fide residence in, and being a citizen of the State of North Dakota, may engage in the wholesale or retail sale of alcohol and alcoholic beverages in the manner and pursuant to the regulations and restrictions contained in this Act. Provided, that no person shall hold a wholesale and a retail license at the same time.

§ 5. Any person engaging in the retail sale of alcohol and alcoholic beverages as herein defined must first procure from the governing body of the City or Village, wherein the said business is to be conducted, a license, the fee therefor to be not less than Two Hundred (\$200.00) Dollars, or more than One Thousand (\$1,000.00) Dollars, to be determined by the governing body of such City or Village; and any person desiring to engage in the retail sale of alcohol and alcoholic beverages at a place other than in the incorporated limits of a City or Village must first procure a license from the County Commissioners at the County in which such business is to be conducted, which license fee shall not be less than Two Hundred (\$200.00) or more than One Thousand (\$1,000.00) Dollars, to be determined by the said Board of County Commissioners; provided that the fee for such license shall be the same to each individual within each of the said political sub-divisions respectively; provided further that such license shall not be transferable, except to the executors or administrators of a deceased license holder.

It is further provided that such retail license shall not permit the sale at any one time to any person of an amount greater than five wine gallons.

§ 6. Before any person residing in the State of North Dakota shall engage in the sale at wholesale of alcohol and alcoholic beverages as defined herein, he shall first procure from the City or Village where said wholesale business is to be conducted a license so to do, which shall be in the sum of not less than Five Hundred (\$500.00), or more than One Thousand (\$1,000.00), to be determined by said governing body of said City or Village, provided that fee therefor shall be the same to all licensees within each City or Village, respectively; provided further, that the wholesale business as used herein shall mean, for the purpose of determining where the same shall be issued, the place where the home office and principal warehouse is kept. Provided that if warehouses or offices are

maintained in more than one city a separate license shall be had for each such warehouse.

§ 7. There shall be levied and collected on all alcohol and alcoholic beverages as defined therein and sold at retail the following excise taxes:

- (1) On all beer, malt and ale containing more than 4% alcohol by weight, the sum of 8¢ per gallon.
- (2) On all light wines up to 14% alcohol by weight, the sum of 10¢ per gallon.
- (3) On all wines from 14% to 21% of alcohol by weight, the sum of 20¢ per gallon.
- (4) On all wines from 21% to 24% of alcohol by weight, the sum of 40¢ per gallon.
- (5) On all wines containing more than 24% of alcohol by weight, the sum of 60¢ per gallon.
- (6) On all natural sparkling wines containing alcohol, the sum of 60¢ per gallon.
- (7) On all artificial sparkling wines containing alcohol, the sum of 30¢ per gallon.
- (8) On all other liquors; liqueurs and cordials, the sum of 60¢ per gallon.

Provided, that in computing the tax on any package of spirits a proportionate tax at a like rate on all fractional parts of a gallon shall be paid, except that all fractional parts of a gallon less than 1-16 shall be taxed at the same rate as shall be taxed for 1-16 of a gallon.

§ 8. Stamps representing the excise tax set forth in Section seven hereof shall be securely affixed to each package or original container, sold by or in the possession of any retail dealer, and it shall be unlawful for any person to possess any original package or other container containing such alcohol or alcoholic beverage within the State of North Dakota upon which there are not affixed thereto such stamp or stamps and any alcohol or alcoholic beverage found in the possession of any person without such stamps attached, except liquor in transit and consigned to a duly licensed wholesaler within the State of North Dakota, as herein defined, shall be subject to seizure and confiscation by any peace officer.

§ 9. The stamps herein provided for shall be prepared and printed by the State Treasurer in such form and denominations as may be necessary for the carrying out of the provisions of this Act, and shall be issued to and sold to all wholesale dealers upon requisition thereof from time to time; and it is hereby made the duty of such wholesaler under this Act to attach to or cause to be attached to each package or container in the proper amounts such stamps as are provided for in this Act before the same are delivered,

shipped to, or consigned to any retail dealer, and to keep a record thereof, designating the County, City and/or Village to which the same are shipped, and report to the State Tax Commissioner the location of the retailer, to whom said sale, delivery, or consignment is made.

All expenses of the State Treasurer in complying with the provisions of this Act shall be deducted from the monies received from the sale of such stamps, and the remainder thereof shall be paid to the various County Treasurers of the State of North Dakota in proportion to the amount delivered to retailers in the various Counties; provided that no distribution shall be made in excess of the amount actually accounted for by the wholesaler, and that any monies on hand, received from wholesalers, shall be held until such time as the wholesaler reports the destination by Counties of the containers to which said stamps are attached.

The distribution of the funds from the sale of said stamps, among the various Counties, shall be under the supervision and control of the State Tax Commissioner, provided, that such money so distributed shall be used exclusively to replace the taxes now levied and extended against real estate.

§ 10. No retailer shall be permitted to sell any alcoholic beverages to a minor, incompetent person, Indian as defined by Federal Law, or a person who is an inebriate, or habitual drunkard.

§ 11. Any Lodge or Club, having a membership of 200 members, or more, and being in existence at the time of the adoption of this Act, may procure a license for the sale at retail of alcohol, and alcoholic beverages as herein defined, provided, however, that under such license, sales may be made only to members thereof.

§ 12. There is hereby conferred upon the governing bodies of Cities and Villages, and of the Board of County Commissioners, within their respective jurisdictions, the authority to revoke licenses for cause, and to regulate the retail sale of alcohol and alcoholic beverages, subject to review by the Courts of this State.

§ 13. This Act shall not be construed to apply to the following articles, when they are unfit for beverage purposes, to-wit:

(a) Denatured alcohol produced and used pursuant to the Acts of Congress, and the regulations thereunder.

(b) Patent, proprietary, medical, pharmaceutical, antiseptic, and toilet preparations.

(c) Flavoring extracts, syrups, and food products.

(d) Scientific, chemical, and industrial products, nor the manufacture or sale of said articles containing alcohol.

It is further provided that this Act shall not apply to wines delivered to priests, rabbis, and ministers for sacramental use;

provided further that this Section shall not apply when a person shall knowingly sell any of the articles enumerated in paragraphs a, b, c, and d, for beverage purposes, or shall sell any of the same under circumstances under which the seller might reasonably deduct the intention of the purchaser to use them for such purposes.

It is further provided that this Act shall not affect the sale of beer containing 3.2% alcohol by weight as now provided by law.

§ 14. Any person violating any of the provisions of this Act shall, upon conviction, as a first offense, be fined not more than Five Hundred (\$500.00) Dollars, or imprisonment in the County jail for not more than 90 days or by both such fine and imprisonment. Any subsequent offense shall be fined not more than One Thousand (\$1,000.00) Dollars, or by imprisonment in the County jail for not more than six months, or by both such fine and imprisonment. And shall the person so convicted be the holder of a license the same shall be revoked by the Governing body issuing the same, and such conviction shall be sufficient evidence and ground for such revocation.

§ 15. The object of this enactment is to provide for the sale and regulation of alcohol and alcoholic beverages 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. All Acts, or parts of Acts, in conflict with the operation of the provisions of this Act are hereby repealed.

Approved November 3, 1936, 147,330 to 128,064.

ABOLISHING ABSENT VOTER'S BALLOT LAW

An Act abolishing the Absent Voters Ballot Law and repealing Article 16 of Chapter 11 of the Political Code of the Compiled Laws of 1913, for the State of North Dakota, and Acts amendatory thereof. Disapproved, June 24, 1936. 108,792 to 61,677.

EXPENDING FEDERAL FUNDS FOR POLITICAL PURPOSES

An Act to provide that it shall be a misdemeanor for any person who has any jurisdiction or authority over the expenditure, or who has been placed in charge of expending, or authorizing the expenditure of any funds contributed or granted, in whole or in part, by the United States or any department or agency or instrumentality thereof for the purpose of alleviating suffering, relieving unemployment, or eradicating misery, distress or pestilence, in the State of North Dakota, or for any person who is employed by any person, firm or corporation, municipality, board of sub-division, whose compensation is paid, in whole or in part, with any such funds, to directly or indirectly promise any employment to any person whomsoever, where the said compensation for such employment may be paid, in whole or in part, out of any such funds, or to directly or indirectly offer or promise to offer, to aid or assist any such person or any officer, county, ward, district, or municipality, in obtaining any such employment, or any such funds for any project eligible therefor, or to directly or indirectly make or offer to make any expenditure, or cause any expenditure to be made or offered, to any person with the intent to induce or influence any such person or any such officer either to vote or to withhold his vote, or to vote for or against any candidate or to persuade or influence others to vote in any Primary or General Election for any public office or any proposition whatsoever, and to prescribe penalties for the violation of this Act.

Disapproved, June 24, 1936. 96,716 to 74,579.

CONSTITUTIONAL AMENDMENTS

ASSESSMENT OF PROPERTY—WHERE AND HOW MADE
 (Submitted by the Legislature)

Chapter 101—Session Laws 1935

A Concurrent Resolution to amend and re-enact Section 179 of Article II of the Constitution of the State of North Dakota as amended by Article 20 of the amendments thereto, relating to revenue and taxation.

Disapproved, June 24, 1936. 147.009 to 36.187.