
ALCOHOLIC BEVERAGES

CHAPTER 49

S. B. No. 131

Introduced by Committee on Temperance

ALCOHOLIC BEVERAGES, HOURS OF SALE

An Act Prohibiting the Sale of Beer, Alcohol and Alcoholic Beverages Between the Hours of 1:00 o'clock A. M., and 8:00 o'clock A. M., and Repealing all Acts and Parts of Acts in Conflict Herewith.

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

§ 1. HOURS OF SALE: PROHIBITED.] It shall be unlawful for any place licensed to retail beer, alcohol or alcoholic beverages to sell give away or permit to be consumed in any such place any beer, alcohol or alcoholic beverages between the hours of 1:00 o'clock A. M. and 8:00 o'clock A. M.

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 All acts and parts of acts in conflict herewith are hereby repealed.

Approved March 12, 1945.

CHAPTER 50

S. B. No. 109

Introduced by Temperance Committee

LICENSE TO SELL ALCOHOLIC BEVERAGES

An Act Providing for the Issuance of State Licenses by the Attorney General of the State of North Dakota to Retailers of Alcohol and Alcoholic Beverages, Providing Certain Qualifications for Applicants for Retail Licenses Authorizing the Sale of Beer, Alcohol and Alcoholic Beverages, Making Unlawful the Commission of Certain Acts by Retail Licensees, and by Minors, Providing for the Suspension or Revocation of Such Licenses by the Attorney General, for the Enforcement of the Provisions Hereof Relating to the Manufacture and Sale of Beer, Alcohol and Alcoholic Beverages, Providing an Appropriation for the Costs and Expenses Incident to the Enforcement of the Provisions Hereof, Providing Penalties for Violations, Repealing all Acts or Parts of Acts in Conflict Herewith, and Declaring an Emergency.

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

§ 1. LICENSE.] From and after the passage, approval and effective date of this act, it shall be unlawful for any person, partnership, association of individuals or corporation to engage in the sale of alcohol or alcoholic beverages at retail unless there shall have been first procured from the Attorney General of the State of North Dakota a license so to do. Such license herein provided for shall be in addition to any license required by any municipality or political sub-division. Where an applicant desires to engage in both the sale of beer under the initiated measure adopted at a special election held on September 22, 1933, as amended, and of alcohol or alcoholic beverages under the provisions of the liquor control act, he shall obtain a license for the sale of each and pay the fee provided for each such license. Any person, partnership, association of individuals, corporation or municipal corporation engaged in the sale of alcohol or alcoholic beverages shall have 60 days after the effective date of this act within which to procure such license.

§ 2. LICENSE FEE.] License fees shall be issued on a calendar year basis. Licenses issued after March 1 in any year shall be prorated from the first of the month in which such licenses are issued. License fees shall be as follows:

Each place licensed for the exclusive off sale of alcohol and alcoholic beverages; or in rural districts, or in villages or cities of less than 500 population, Fifty Dollars (\$50);

Each place licensed for the on and off sale of alcohol and alcoholic beverages; or in villages or cities having more than 500 population, One Hundred Dollars (\$100).

§ 3. QUALIFICATIONS; REGULATIONS.] In addition to qualifications now prescribed by law, no license authorizing the sale at retail of beer, alcohol or alcoholic beverages shall be issued to any person, partnership, association of individuals or corporation by the Attorney General unless such applicant shall file a sworn application therefor, accompanied by the required fee, and shall show in such application that he possesses the following qualifications:

1. Applicant other than corporate must be a citizen of the United States and of the State of North Dakota and have a legal and bona fide residence in the State of North Dakota, and be a person of good moral character.

2. Applicant shall not have been convicted of a felony, or of pandering or of keeping or maintaining a house of prostitution, or have been convicted within five (5) years of the date of his application of any violation of the laws of this state or the laws of the United States relating to beer, alcohol or alcoholic beverages.

3. Applicant shall not have had revoked, within five (5) years next preceding his application any license issued to him pursuant

to the ordinances or resolutions of a city, village or board of county commissioners, to the laws of this state, or any state, to sell beer, alcohol or alcoholic beverages.

4. If applicant is a co-partnership, all members of the co-partnership must be personally qualified to obtain a license.

5. If the applicant is a private or municipal corporation, all officers and directors thereof, and any stockholder owning more than five per centum (5%) of the stock of such corporation, and the person or persons who shall conduct and manage the licensed premises for the corporation shall possess all the qualifications required herein for an individual licensee; provided, however, that the requirements as to being a resident and citizen of the state shall not apply to non-resident officers, directors and stockholders of such corporation, but such requirements shall apply to any officer, director, or stockholder who is also the manager of the licensed premises or who is engaged or employed at the licensed premises, in any capacity, in the conduct or operation of the licensed premises.

Any misstatement or concealment of fact in an application shall be ground for revocation of the license issued thereon.

The qualifications or other requirements, herein provided for shall not be deemed to restrict in any manner the qualifications or other requirements required by the governing body of any incorporated city or village or by the county commissioners of any county for the issuance of a license or the operation of such business.

§ 4. BAR SEPARATION. MINORS.] No licensee authorized to sell beer or alcohol and alcoholic beverages shall operate or maintain a bar on or over which beer or alcohol and alcoholic beverages are sold, furnished or distributed in any room or rooms wherein food is served at tables for consumption on the premises, excepting that any licensee who operates or maintains such a bar may operate a restaurant as a part of his licensed premises if the dining room where food is served at tables is separated by a solid wall or walls from the room or rooms containing such bar, and access between such dining room and the bar room is had by not to exceed two connecting archways, or doorways, and each such archway or doorway shall not exceed four (4) feet in width. Where a restaurant is so operated by such a licensee, his license shall cover each room and the licensee may sell and serve beer or alcohol and alcoholic beverages, as the case may be, to patrons of the restaurant. No person under 21 years of age shall be permitted in any room wherein is operated or maintained a bar on or over which beer or alcohol and alcoholic beverages are sold, furnished or distributed.

§ 5. ACTS PROHIBITED.] No holder of a license authorizing the sale at retail of beer, alcohol or alcoholic beverages, or any

servant, agent, or employee of the licensee, shall do any of the following upon the licensed premises:

1. Sell beer, alcohol or alcoholic beverages to a minor or to an incompetent person;
2. Sell beer, alcohol or alcoholic beverages to any person while such person is in an intoxicated condition;
3. Sell beer, alcohol or alcoholic beverages to an Indian as defined by Federal Law;
4. Sell or permit the consumption of beer, alcohol or alcoholic beverages upon the licensed premises on any day at any time when such sale or consumption is prohibited by law;
5. Permit on the licensed premises any disorderly conduct, breach of the peace, or any lewd, immoral or improper entertainment, conduct or practices;
6. Sell, offer for sale, possess or permit the consumption on the licensed premises of any kind of alcoholic liquors, the sale or possession of which is not authorized under his license.

The provisions of this act shall not be construed as exclusive and shall in no manner repeal or abolish any restrictions or regulations now contained in or hereafter provided by law or ordinance for the conduct and operation of such business.

§ 6. ENFORCEMENT.] The inspectors appointed by the Attorney General as authorized by law shall assist in the enforcement of the laws of this state relating to the sale of beer, alcohol or alcoholic beverages, and the other laws of this state under the jurisdiction of the Attorney General. They shall frequently visit all licensed premises and shall give particular attention to the operation and conduct of retail premises to the end that such premises shall be conducted in a lawful and orderly manner and in strict compliance with the laws relating to such business. In the performance of the duties hereby imposed upon them, such inspectors shall have all the powers and duties conferred by law upon peace officers. The Attorney General shall be empowered to grant to a licensee under this act a reasonable time within which to fully comply with separation of bar and dining room, as provided in Section 4 hereof.

§ 7. COMPLAINTS.] Any person who has information that any licensed retailer of beer, alcohol or alcoholic beverages therein has violated any of the provisions of this act or any law respecting the sale of beer or intoxicating liquor may file with the Attorney General an affidavit setting forth such violation or violations, and it is hereby made the duty of all peace officers who have information

of any such violation or violations committed by such licensee within their jurisdiction to file such an affidavit with the Attorney General. Such affidavit shall state the facts constituting the violation or violations of law charged therein with such clarity and certainty that the licensee may be reasonably apprised of the offense or offenses alleged to have been committed by him. Upon receipt of any such affidavit, it shall be the duty of the Attorney General to set the matter down for hearing at an early date. The Attorney General shall mail by registered mail to the retailer a copy of the affidavit together with a notice of the time and place of hearing thereon, which date of hearing shall not be less than ten (10) days after such copy of affidavit and notice has been mailed to the retailer.

§ 8. HEARING, PLACE OF.] The Attorney General or any competent employee of his office whom he may select may conduct any hearing herein provided for, but any employee so conducting the hearing shall report his findings and conclusions to the Attorney General for appropriate action by such Attorney General. Such shall be held at the county seat of the county in which the licensed premises are situated.

§ 9. SUSPENSION OR REVOCATION OF LICENSE.] If, after such hearing, the Attorney General finds that the violation or violations charged in the affidavit have been established by the evidence, he shall order the revocation or suspension of the license. If the Attorney General finds that the licensee has not previously violated the law in the operation of his licensed business and that no license held by him has previously been suspended or revoked and if it appears to the satisfaction of the Attorney General that there is reasonable ground to believe that the licensee will not again commit the offense or offenses charged in the affidavit and that to revoke the license would be unduly severe, then the Attorney General may, in his discretion, suspend the license for such period of time as he deems proper.

§ 10. WITNESSES.] The Attorney General or other employee of his office authorized herein to conduct any hearing shall have the power to subpoena witnesses, to compel their attendance, and to administer oaths. Such witnesses shall be allowed a fee of \$4.00 per day, together with their mileage in attending such hearing at the rate of five cents per mile, such fees and expenses to be paid by the State Treasurer on voucher duly approved by the Attorney General.

§ 11. REVIEW BY THE COURT.] The action of the Attorney General in revoking or suspending a license may be appealed to the district court of the county and district in which the premises described in the license are located by procedure applicable to appeals from Justice Court except that the Attorney General's order revoking or suspending the license may be stayed by the court appealed to

upon filing with the clerk of said court a bond approved by and in the amount set by the Judge of said district court for the faithful observance of the laws of the state relative to the operation of the business licensed during the pendency of the appeal.

The revocation or suspension of a licensee's municipal or county license shall automatically revoke or suspend such licensee's state license.

§ 12. DUTY TO ENFORCE.] The Attorney General, his inspectors and all peace officers in the State of North Dakota shall be charged with the duty of diligently enforcing the provisions of this act and all other provisions of law relating to the manufacture and sale of beer, alcohol or alcoholic beverages and the failure to so diligently perform such duties shall be grounds for removal from office.

§ 13. Before selling, serving or dispensing to any person any beer, alcohol or alcoholic beverage, a licensee, his agent or employee may require a statement in writing and signed by said person of such person's age. Any person who makes a false statement as to his or her age is guilty of a misdemeanor and shall be punished by a fine of not to exceed one hundred dollars (\$100.00) or by imprisonment for not to exceed thirty (30) days or by both such fine and imprisonment.

§ 14. APPROPRIATION.] There is hereby appropriated out of any monies in the State Treasury, not otherwise appropriated, the sum of \$35,000 or so much thereof as may be necessary for the purpose of defraying expenses of the licensing and enforcement purposes of this act.

§ 15. The provisions of this act shall not be construed as exclusive and shall in no manner repeal or abolish any restrictions or regulations now contained in any law, resolution or ordinance for the conduct and operation of such business, enacted by the legislative assembly and the governing board of any city, village or county.

§ 16. REPEAL.] Any acts or parts of acts in conflict with any of the provisions of this act, including any provision or provisions of that initiated measure adopted at a special election held on September 22, 1933, as amended, known as the North Dakota Beer Act, and of that initiated measure adopted at the general election held on November 3, 1936, as amended, known as the Liquor Control Act, excluding, however, Chapter 5-04 of the North Dakota Revised Code of 1943 in conflict with any of the provisions of this act, are hereby expressly repealed.

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

Approved March 13, 1945.

CHAPTER 51

H. B. 197

Introduced by Representatives McInnes, Bagge, Ostgulen,
Wambheim and Fuglestad

MUNICIPAL LIQUOR STORES

An Act To provide for the establishment, by local option, of Municipal Liquor Stores in duly incorporated towns, cities and villages having a population not in excess of 2000 inhabitants; and to provide for the operation and management thereof; and for the distribution of the profits accruing therefrom.

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

§ 1. Any duly incorporated city, village or town, having a population of not to exceed 2000 inhabitants, may establish, own and operate a municipal liquor store for the retail sale of alcoholic beverages, the sale of which is permitted by law.

§ 2. No such liquor store shall be established by any such municipality unless the establishment thereof has been authorized by a majority of the voters of such municipality voting on such question.

§ 3. The governing body of any such municipality, when petitioned so to do, by thirty per cent of the voters thereof determined by the total vote cast at the last preceding municipal election, shall submit to the voters of such municipality the question of establishing a municipal liquor store.

§ 4. Such proposal may be submitted at the next regular election occurring within such municipality, or it may be submitted at a special election called for that purpose and as may be determined by the governing board of such municipality.

§ 5. Such proposal shall be submitted upon a separate ballot in substantially the following form:

“Shall a Municipal Liquor Store be established by the
City (Town or village) of _____?
Yes, _____
No, _____”

Such election shall be conducted and the votes canvassed in the same manner as other municipal elections are conducted within such municipality.

§ 6. If a majority of the votes cast at such election shall be in favor of the establishment of a municipal liquor store, it shall be the duty of the governing board of the municipality to establish and maintain and operate such liquor store.

§ 7. The governing body of such municipality shall appoint a manager of such store and such assistants as may be necessary. It may purchase or lease a suitable building and it may purchase or lease suitable equipment, and it may purchase liquor stocks, and do all things necessary and proper for the establishment and operation of such store. That such manager may be bonded, at the discretion of the governing body of the municipality. They shall fix the compensation to be paid to the manager and other employees of the liquor store, the term of employment of all of whom shall be at the pleasure of the governing body of the municipality. Such governing body shall make all necessary and proper rules for the operation and management of such store.

§ 8. All sales of liquor made by such municipal store shall be in sealed or corked containers or packages, and no drinking of alcoholic beverages shall be permitted in or on the premises of such store. All sales shall be for cash.

§ 9. All liquor sold by any such municipal liquor store shall be subject to the payment of the same excise taxes as liquor sold by a private licensee; and all such municipal liquor stores shall be subject to the same statutory regulations regarding persons to whom intoxicating liquor may be sold, hours of sale, and other police regulations as may be applicable to a private retail liquor dealer including the provisions of the Liquor Control Act and amendments thereto.

§ 10. The manager of such municipal liquor store shall keep a running inventory of liquors kept for sale, and he shall make a financial report to the governing body of such municipality on the first day of each month, showing liquor purchased, liquors on hand, and liquors sold, and also a statement of all expenses incurred and the net profit accruing therefrom. That all such net profits shall be paid over to the treasurer of the municipality at such time or times as the governing board may direct.

§ 11. No food nor tobaccos nor anything other than alcoholic beverages shall be sold by or in such stores. There shall be no tables nor booths, and no cards, dice or other games shall be provided; and no games, dances nor amusements whatsoever shall be permitted therein. The store shall be completely shut off from all other stores, cafes, pool-halls, bowling alleys and other places of business, entertainment or amusement, with no door, door-way or other opening between.

§ 12. That on July first of each year, the governing body of such municipality shall cause to be paid over to the county treasurer of the county in which such municipality may be located, twenty-five per cent (25%) of the net profits accruing from the operation of such municipal liquor store during the preceding year, said funds to become a part of the general funds of such county.

§ 13. The terms liquor, intoxicating liquor, alcoholic beverages, and alcohol as used herein, shall mean and include any alcoholic, spirituous, vinous, fermented, malted or other liquor which contains more than four per cent (4%) of alcohol, by weight.

§ 14. Any manager or other employee of any municipal liquor store who shall sell any alcoholic beverage contrary to the provisions of this act or contrary to any other applicable law, shall be guilty of a misdemeanor; and any member of a governing body of a municipality, who shall knowingly sanction or permit the violation of law pertaining to such business, by the employees or manager of any municipal liquor store subject to the control of such governing body, shall also be guilty of a misdemeanor.

§ 15. It is the purpose and intention of this act to provide for better control of the retail sale of intoxicating liquor as herein defined, in the smaller towns, cities and villages of the state of North Dakota, and in the interest of public welfare and morals.

Approved March 14, 1945.

CHAPTER 52

H. B. No. 147

Introduced by Committee on Temperance

PROHIBITING ALCOHOLIC BEVERAGES TO MINORS

An Act Prohibiting sale or delivery of beer, alcohol and alcoholic beverages to certain persons, repealing Sections 5-0210 and 5-0318 of the North Dakota Revised Code of 1943, and declaring an emergency.

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

§ 1. No person shall sell or deliver any beer, alcohol or alcoholic beverages to any person under the age of 21 years, incompetent person, Indian as defined by federal law, or a person who is an inebriate, or habitual drunkard.

§ 2. REPEAL.] Section 5-0210 and Section 5-0317 of the North Dakota Revised Code of 1943 are hereby repealed.

§ 3. EMERGENCY.] 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 14, 1945.

CHAPTER 53

H. B. No. 165

Introduced by Representatives Halcrow, Fuglestad, Sandness
and LangleyPROHIBITING SUBSIDIES BY BEER OR LIQUOR DEALERS
AND MANUFACTURERS

An Act Prohibiting manufacturers and wholesalers of beer or alcohol and alcoholic beverages from having any financial interest in the business of a retailer of beer or alcohol and alcoholic beverages, and prohibiting such manufacturers and wholesalers from giving financial aid or furnishing fixtures or other equipment to such retailers, providing penalties for a violation of this Act.

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

§ 1. For the purpose of this Act the following words or phrases shall have the meaning ascribed to them in this section:

“Person” shall mean every natural person, association, co-partnership, or corporation.

“Beer” and “alcohol and alcoholic beverages” shall mean such beverages as are regulated and controlled, respectively, by that initiated measure adopted at the special election held on September 23, 1933, as amended, known as the North Dakota Beer Act, and that initiated measure adopted at the general election of November 3, 1936, as amended, known as the Liquor Control Act.

“Manufacturer” shall mean any person engaged in the brewing, producing, manufacturing, distilling, rectifying, or compounding of beer or alcohol and alcoholic beverages.

“Wholesaler” shall mean any person engaged in the business of selling beer or alcohol and alcoholic beverages at wholesale.

“Retailer” shall mean any person licensed under the laws of this state to sell beer or alcohol and alcoholic beverages at retail.

§ 2. SUBSIDIZING PROHIBITED.] No manufacturer or wholesaler shall, either directly or indirectly, own or control, or have any financial interest in, any retail business selling beer or alcohol and alcoholic beverages; but this restriction shall not be construed to deny such person the right to use or have his property rented for such purpose in any case where the manufacturer or wholesaler was a bona fide owner of the premises prior to the effective date hereof. No manufacturer or wholesaler shall, directly or indirectly, or through a subsidiary or affiliate corporation, or by any officer, director, stockholder or partner thereof, give, lend or advance any money, credit or other thing of value to any retailer or to any person for the benefit or relief of any retailer, nor furnish, give, lend, lease

or sell any furniture, fixtures, fittings or equipment to any retailer or to any person for the benefit or relief of any retailer; nor shall any manufacturer or wholesaler, directly or indirectly, have any interest in, or pay for, any retail license, or advance, furnish, lend or give money for the payment of retail license fees or any expense incident to the obtaining of such license; nor shall any manufacturer or wholesaler become bound in any manner, directly or indirectly, for the repayment of any loan made to, or the fulfillment of any financial obligation of, any retailer; except that manufacturers or wholesalers may: (1) extend to retailers the usual and customary commercial credits for products of the industry actually sold and delivered; (2) furnish to retailers the containers of beer actually sold and delivered and may recover the same, or the value thereof, if such containers are not returned; (3) furnish, lend or rent outside signs to retailers, provided the cost of such signs, in the aggregate, furnished, lent or rented by any manufacturer or wholesaler to any retailer shall not exceed \$100.00 exclusive of erection, installation and repair charges; but nothing herein shall be construed as affecting signs owned and located in the state on the effective date hereof by any such manufacturer or wholesaler; (4) furnish inside signs, miscellaneous advertising matter and other items not to exceed, in the aggregate, a cost of \$25.00 in any calendar year to any one retailer; (5) furnish or maintain for retailers such equipment as is designed and intended to preserve and maintain the sanitary dispensing of beer, provided the expense incurred thereby does not exceed the sum of \$25.00 per tap per calendar year, no part of which shall be paid in cash to any retailer; (6) lease or lend to the owner of premises, or to any retailer now or hereafter occupying the premises, any furniture, fixtures, fittings and equipment actually located on said premises on the effective date hereof. Any such manufacturer or wholesaler who, within ten days after the effective date, hereof, owns any furniture, fixtures, fittings or equipment in possession of any retailer on the effective date hereof may, within 90 days after said effective date, sell the same to such retailer only for cash on delivery and deliver a bill of sale to the same.

§ 3. EXCLUSIVE SALE PROHIBITED.] No manufacturer or wholesaler shall hereafter, directly or indirectly, or through a subsidiary or affiliate corporation, or by any officer, director, stockholder or partner enter into any agreement, oral or written, whether or not incorporated in any chattel mortgage, conditional sales contract, bill of sale, lease, land contract, mortgage, deed or other instrument, wherein and whereby any retailer is required to purchase the beer or alcohol and alcoholic beverages of any manufacturer to the exclusion, in whole or in part, of the products of other manufacturers.

§ 4. RETAILERS, VIOLATION.] Any retailer who shall be a party to any violation of this Act, or who shall receive the benefits

thereof, shall be equally guilty with the manufacturer or wholesaler and shall be subject to the penalty hereinafter provided.

§ 5. PENALTIES.] Any person who shall violate the provisions of this Act shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than One Hundred Dollars (\$100.00) nor more than One Thousand Dollars (\$1,000.00), or imprisonment in the county jail for a term of not less than thirty (30) days nor more than six (6) months, or by both such fine and imprisonment.

Approved March 13, 1945.

APPROPRIATIONS

CHAPTER 54

H. B. No. 9

Introduced by Committee on Appropriations

AGRICULTURE AND LABOR—BEE KEEPERS ACT

An Act Making an appropriation to defray the expenses for the Bee Keepers Act.

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

§ 1. APPROPRIATION.] There is hereby appropriated out of any monies in the State Treasury, not otherwise appropriated, the sum of \$2,500.00, or so much thereof as may be necessary to defray the expenses of the Commissioner of Agriculture and Labor or his agents as provided for in Section 4-1201, North Dakota Revised Code of 1943, for the biennium beginning July 1st, 1945, and ending June 30th, 1947, to-wit:

| | |
|----------------------------|------------|
| Licensing Bee Keepers..... | \$2,500.00 |
| Total | \$2,500.00 |

Approved March 12, 1945.