

CHAPTER 210—H.F.No. 3940

An act relating to liquor; allowing Minnesota farm wineries to produce fortified wine; modifying certain fee provisions; providing for licensing provisions; clarifying certain sale hours; authorizing various local on-sale licenses; prohibiting alcohol without liquid devices; amending Minnesota Statutes 2004, sections 340A.101, subdivision 11, by adding a subdivision; 340A.315, subdivisions 1, 2, 3, 4; 340A.404, subdivision 5; 340A.414, subdivision 2; 340A.504, subdivision 6; Minnesota Statutes 2005 Supplement, sections 340A.301, subdivision 6; 340A.404, subdivision 2; 340A.412, subdivision 4; proposing coding for new law in Minnesota Statutes, chapter 340A.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 2004, section 340A.101, subdivision 11, is amended to read:

Subd. 11. **Farm winery.** "Farm winery" is a winery operated by the owner of a Minnesota farm and producing table ~~or~~ sparkling, or fortified wines from grapes, grape juice, other fruit bases, or honey with a majority of the ingredients grown or produced in Minnesota.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 2. Minnesota Statutes 2004, section 340A.101, is amended by adding a subdivision to read:

Subd. 30. **Fortified wine.** "Fortified wine" is wine to which brandy, or neutral grape spirits, has been added during or after fermentation resulting in a beverage containing not less than one-half of one percent nor more than 24 percent alcohol by volume for nonindustrial use.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 3. Minnesota Statutes 2005 Supplement, section 340A.301, subdivision 6, is amended to read:

Subd. 6. **Fees.** The annual fees for licenses under this section are as follows:

- (a) Manufacturers (except as provided in clauses (b) and (c)) \$ 30,000
- Duplicates \$ 3,000
- (b) Manufacturers of wines of not more than 25 percent alcohol by volume \$ 500
- (c) Brewers who manufacture more than 3,500 barrels of malt liquor in a year \$ 4,000

- (d) Brewers who also hold one or more retail on-sale licenses and who manufacture fewer than 3,500 barrels of malt liquor in a year, at any one licensed premises, the entire production of which is solely for consumption on tap on ~~the~~ any licensed premises ~~or owned by the brewer, or~~ for off-sale from ~~that~~ those licensed premises as permitted in subdivision 7. A brewer licensed under this clause must obtain a separate license for each licensed premises where the brewer brews malt liquor. A brewer licensed under this clause may not be licensed as an importer under this chapter \$ 500
- (e) Wholesalers (except as provided in clauses (f), (g), and (h)) \$ 15,000
 Duplicates \$ 3,000
- (f) Wholesalers of wines of not more than 25 percent alcohol by volume \$ 3,750
- (g) Wholesalers of intoxicating malt liquor \$ 1,000
 Duplicates \$ 25
- (h) Wholesalers of 3.2 percent malt liquor \$ 10
- (i) Brewers who manufacture fewer than 2,000 barrels of malt liquor in a year \$ 150
- (j) Brewers who manufacture 2,000 to 3,500 barrels of malt liquor in a year \$ 500

If a business licensed under this section is destroyed, or damaged to the extent that it cannot be carried on, or if it ceases because of the death or illness of the licensee, the commissioner may refund the license fee for the balance of the license period to the licensee or to the licensee's estate.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 4. Minnesota Statutes 2004, section 340A.315, subdivision 1, is amended to read:

Subdivision 1. **Licenses.** The commissioner may issue a farm winery license to the owner or operator of a farm winery located within the state and producing table ~~or~~ sparkling, or fortified wines. Licenses may be issued and renewed for an annual fee of \$50, which is in lieu of all other license fees required by this chapter.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 5. Minnesota Statutes 2004, section 340A.315, subdivision 2, is amended to read:

Subd. 2. **Sales.** A license authorizes the sale, on the farm winery premises, of table ~~or~~ sparkling, or fortified wines produced by that farm winery at on-sale or off-sale, in retail, or wholesale lots in total quantities not in excess of 50,000 gallons in a calendar year, glassware, wine literature and accessories, cheese and cheese spreads, other wine-related food items, and the dispensing of free samples of the wines offered for sale. Sales at on-sale and off-sale may be made on Sundays between 12:00 noon and 12:00

midnight. Labels for each type or brand produced must be registered with the commissioner, without fee prior to sale.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 6. Minnesota Statutes 2004, section 340A.315, subdivision 3, is amended to read:

Subd. 3. **Applicability.** Except as otherwise specified in this section, all provisions of this chapter govern the production, sale, possession, and consumption of table or sparkling, or fortified wines produced by a farm winery.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 7. Minnesota Statutes 2004, section 340A.315, subdivision 4, is amended to read:

Subd. 4. **Minnesota products.** If Minnesota produced or grown grapes, grape juice, other fruit bases, or honey is not available in quantities sufficient to constitute a majority of the table or sparkling, or fortified wine produced by a farm winery, the holder of the farm winery license may file an affidavit stating this fact with the commissioner. If the commissioner, after consultation with the commissioner of agriculture, determines this to be true, the farm winery may use imported products and shall continue to be governed by the provisions of this section. The affidavit is effective for a period of one year, after which time the farm winery must use the required amount of Minnesota products as provided by subdivision 1 unless the farm winery holder files a new affidavit with the commissioner.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 8. Minnesota Statutes 2005 Supplement, section 340A.404, subdivision 2, is amended to read:

Subd. 2. **Special provision; city of Minneapolis.** (a) The city of Minneapolis may issue an on-sale intoxicating liquor license to the Guthrie Theater, the Cricket Theatre, the Orpheum Theatre, the State Theatre, and the Historic Pantages Theatre, notwithstanding the limitations of law, or local ordinance, or charter provision relating to zoning or school or church distances. The licenses authorize sales on all days of the week to holders of tickets for performances presented by the theaters and to members of the nonprofit corporations holding the licenses and to their guests.

(b) The city of Minneapolis may issue an intoxicating liquor license to 510 Groveland Associates, a Minnesota cooperative, for use by a restaurant on the premises owned by 510 Groveland Associates, notwithstanding limitations of law, or local ordinance, or charter provision.

(c) The city of Minneapolis may issue an on-sale intoxicating liquor license to Zuhrah Shrine Temple for use on the premises owned by Zuhrah Shrine Temple at 2540 Park Avenue South in Minneapolis, and to the American Swedish Institute for use on the premises owned by the American Swedish Institute at 2600 Park Avenue South, notwithstanding limitations of law, or local ordinances, or charter provision relating to zoning or school or church distances.

(d) The city of Minneapolis may issue an on-sale intoxicating liquor license to the American Association of University Women, Minneapolis branch, for use on the premises owned by the American Association of University Women, Minneapolis branch, at 2115 Stevens Avenue South in Minneapolis, notwithstanding limitations of law, or local ordinances, or charter provisions relating to zoning or school or church distances.

(e) The city of Minneapolis may issue an on-sale wine license and an on-sale 3.2 percent malt liquor license to a restaurant located at 5000 Penn Avenue South, and an on-sale wine license and an on-sale

malt liquor license to a restaurant located at 1931 Nicollet Avenue South, notwithstanding any law or local ordinance or charter provision.

(f) The city of Minneapolis may issue an on-sale wine license and an on-sale malt liquor license to the Brave New Workshop Theatre located at 3001 Hennepin Avenue South, the Theatre de la Jeune Lune, the Illusion Theatre located at 528 Hennepin Avenue South, the Hollywood Theatre located at 2815 Johnson Street Northeast, the Loring Playhouse located at 1633 Hennepin Avenue South, the Jungle Theater located at 2951 Lyndale Avenue South, Brave New Institute located at 2605 Hennepin Avenue South, the Guthrie Lab located at 700 North First Street, and the Southern Theatre located at 1420 Washington Avenue South, notwithstanding any law or local ordinance or charter provision. The license authorizes sales on all days of the week.

(g) The city of Minneapolis may issue an on-sale intoxicating liquor license to University Gateway Corporation, a Minnesota nonprofit corporation, for use by a restaurant or catering operator at the building owned and operated by the University Gateway Corporation on the University of Minnesota campus, notwithstanding limitations of law, or local ordinance or charter provision. The license authorizes sales on all days of the week.

(h) The city of Minneapolis may issue an on-sale intoxicating liquor license to the Walker Art Center's concessionaire or operator, for a restaurant and catering operator on the premises of the Walker Art Center, notwithstanding limitations of law, or local ordinance or charter provisions. The license authorizes sales on all days of the week.

(i) The city of Minneapolis may issue an on-sale intoxicating liquor license to the Guthrie Theater's concessionaire or operator for a restaurant and catering operator on the premises of the Guthrie Theater, notwithstanding limitations of law, local ordinance, or charter provisions. The license authorizes sales on all days of the week.

(j) The city of Minneapolis may issue an on-sale wine license and an on-sale malt liquor license to the Minnesota Book and Literary Arts Building, Inc.'s concessionaire or operator, for a restaurant and catering operator on the premises of the Minnesota Book and Literary Arts Building, Inc. (dba Open Book), notwithstanding limitations of law, or local ordinance or charter provision. The license authorizes sales on all days of the week.

(k) The city of Minneapolis may issue an on-sale intoxicating liquor license to a restaurant located at 5411 Penn Avenue South, notwithstanding any law or local ordinance or charter provision.

EFFECTIVE DATE. This section is effective upon approval by the Minneapolis City Council in the manner provided by Minnesota Statutes, section 645.021, notwithstanding Minnesota Statutes, section 645.023, subdivision 1, paragraph (a).

Sec. 9. Minnesota Statutes 2004, section 340A.404, subdivision 5, is amended to read:

Subd. 5. **Wine licenses.** (a) A municipality may issue an on-sale wine license with the approval of the commissioner to a restaurant having facilities for seating at least 25 guests at one time. A wine license permits the sale of wine of up to 14 percent alcohol by volume for consumption with the sale of food. A wine license authorizes the sale of wine on all days of the week unless the issuing authority restricts the license's authorization to the sale of wine on all days except Sundays.

(b) The governing body of a municipality may by ordinance authorize a holder of an on-sale wine license issued pursuant to paragraph (a) who is also licensed to sell 3.2 percent malt liquors at on-sale pursuant to section 340A.411, and whose gross receipts are at least 60 percent attributable to the sale of food, to sell intoxicating malt liquors at on-sale without an additional license.

(c) A municipality may issue an on-sale wine license with the approval of the commissioner to a licensed bed and breakfast facility. A license under this paragraph authorizes a bed and breakfast facility to furnish wine only to registered guests of the facility and, if the facility contains a licensed commercial kitchen, also to guests attending private events at the facility.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 10. **[340A.4041] CULINARY CLASSES; ON-SALE LICENSE.**

Subdivision 1. License authorized. A city or county may issue a limited on-sale intoxicating liquor license to a business establishment: (1) not otherwise eligible for an on-sale intoxicating liquor license; and (2) that, as part of its business, conducts culinary or cooking classes for which payment is made by each participant or advance reservation required. The license authorizes the licensee to furnish to each participant in each class, at no additional cost to the participant, up to a maximum of six ounces of wine or 12 ounces of intoxicating malt liquor, during and as part of the class, for consumption on the licensed premises only.

Subd. 2. Fee. The issuing authority shall set the fee for a license under this section, subject to section 340A.408, subdivision 2, paragraph (a).

Subd. 3. Application of other law. All provisions of this chapter that apply to on-sale intoxicating liquor licenses, other than provisions inconsistent with this section, apply to licenses issued under this section, except that section 340A.409 shall not apply.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 11. Minnesota Statutes 2005 Supplement, section 340A.412, subdivision 4, is amended to read:

Subd. 4. Licenses prohibited in certain areas. (a) No license to sell intoxicating liquor may be issued within the following areas:

(1) where restricted against commercial use through zoning ordinances and other proceedings or legal processes regularly had for that purpose, except licenses may be issued to restaurants in areas which were restricted against commercial uses after the establishment of the restaurant;

(2) within the Capitol or on the Capitol grounds, except as provided under Laws 1983, chapter 259, section 9, or Laws 1999, chapter 202, section 13;

(3) on the State Fairgrounds or at any place in a city of the first class within one-half mile of the fairgrounds, except as otherwise provided by charter;

(4) on the campus of the College of Agriculture of the University of Minnesota or at any place in a city of the first class within one-half mile of the campus, provided that a city may issue one on-sale wine license and one off-sale intoxicating liquor license in this area that is not included in the area described in clause (3), except as provided by charter;

(5) within 1,000 feet of a state hospital, training school, reformatory, prison, or other institution under the supervision or control, in whole or in part, of the commissioner of human services or the commissioner of corrections;

(6) in a town or municipality in which a majority of votes at the last election at which the question of license was voted upon were not in favor of license under section 340A.416, or within one-half mile of any such town or municipality, except that intoxicating liquor manufactured within this radius may be sold to be consumed outside it;

(7) at any place on the east side of the Mississippi River within one-tenth of a mile of the main building of the University of Minnesota unless (i) the licensed establishment is on property owned or operated by a

nonprofit corporation organized prior to January 1, 1940, for and by former students of the University of Minnesota, or (ii) the licensed premises is Northrop Auditorium;

(8) within 1,500 feet of a state university, except that:

(i) the minimum distance in the case of Winona and Southwest State University is 1,200 feet, measured by a direct line from the nearest corner of the administration building to the main entrance of the licensed establishment;

(ii) within 1,500 feet of St. Cloud State University one on-sale wine and two off-sale intoxicating liquor licenses may be issued, measured by a direct line from the nearest corner of the administration building to the main entrance of the licensed establishment;

(iii) at Mankato State University the distance is measured from the front door of the student union of the Highland campus;

(iv) a temporary license under section 340A.404, subdivision 10, may be issued to a location on the grounds of a state university for an event sponsored or approved by the state university; and

(v) this restriction does not apply to the area surrounding the premises ~~located by~~ located by Metropolitan State University ~~at 730 Hennepin Avenue South~~ in Minneapolis; and

(9) within 1,500 feet of any public school that is not within a city.

(b) The restrictions of this subdivision do not apply to a manufacturer or wholesaler of intoxicating liquor or to a drugstore or to a person who had a license originally issued lawfully prior to July 1, 1967.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 12. Minnesota Statutes 2004, section 340A.414, subdivision 2, is amended to read:

Subd. 2. **Eligibility for permit.** (a) The commissioner may issue a permit under this section only to:

(1) an applicant who has not, within five years prior to the application, been convicted of a felony or of violating any provision of this chapter or rule adopted under this chapter;

(2) a restaurant;

(3) a hotel;

(4) an establishment licensed for the sale of 3.2 percent malt liquor;

(5) a resort as defined in section 157.15; ~~and~~

(6) a club as defined in section 340A.101, subdivision 7, or an unincorporated club otherwise meeting that definition; and

(7) a bed and breakfast facility as defined in section 340A.411, subdivision 1.

(b) The commissioner may not issue a permit to a club holding an on-sale intoxicating liquor license.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 13. Minnesota Statutes 2004, section 340A.504, subdivision 6, is amended to read:

Subd. 6. **Municipalities may limit hours.** A municipality may further limit the hours of ~~sale on and off sales of~~ alcoholic beverages, provided that further restricted on-sale hours for intoxicating liquor must apply equally to sales on-sale hours of 3.2 percent malt liquor and intoxicating liquor. A city may not permit the sale of alcoholic beverages during hours when the sale is prohibited by this section.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 14. **[340A.706] ALCOHOL WITHOUT LIQUID DEVICES PROHIBITED.**

Subdivision 1. Definition. For purposes of this section, an "alcohol without liquid device" is a device, machine, apparatus, or appliance that mixes an alcoholic beverage with pure or diluted oxygen to produce an alcohol vapor that may be inhaled by an individual. An "alcohol without liquid device" does not include an inhaler, nebulizer, atomizer, or other device that is designed and intended specifically for medical purposes to dispense prescribed or over-the-counter medications.

Subd. 2. Prohibition. (a) Except as provided in subdivision 3, it is unlawful for any person or business establishment to possess, purchase, sell, offer to sell, or use an alcohol without liquid device.

(b) Except as provided in subdivision 3, it is unlawful for any person or business establishment to utilize a nebulizer, inhaler, or atomizer or other device as described in subdivision 1, for the purposes of inhaling alcoholic beverages.

Subd. 3. Research exemption. This section does not apply to a hospital that operates primarily for the purpose of conducting scientific research, a state institution conducting bona fide research, a private college or university conducting bona fide research, or to a pharmaceutical company or biotechnology company conducting bona fide research.

Sec. 15. **CITY OF NEW PRAGUE; LIQUOR LICENSE.**

(a) The city of New Prague may issue an on-sale intoxicating liquor license for the New Prague Golf Club grounds, clubhouse, and restaurant located in the city of New Prague, notwithstanding any limitation of law, local ordinance, or charter provision. The provisions of Minnesota Statutes, chapter 340A, apply to the license issued under this section. The provisions of Minnesota Statutes, sections 340A.603 and 340A.604, apply to the establishment licensed under this section as if the establishment were a municipal liquor store, provided that the commissioner of public safety may not impose any penalty on the establishment under those sections if the city has imposed a comparable or greater penalty on the licensee for the same offense. The license under this section authorizes sales on all days of the week.

(b) The city of New Prague is the licensee under this section for purposes of compliance with Minnesota Statutes, section 340A.409. The city of New Prague is deemed the seller of alcoholic beverages under the license authorized by this section for purposes of Minnesota Statutes, sections 340A.801 and 340A.802.

EFFECTIVE DATE. This section is effective the day following final enactment.

Presented to the governor May 15, 2006

Signed by the governor May 18, 2006, 7:30 p.m.