

Statutes
1878

THE
GENERAL STATUTES
OF THE
STATE OF MINNESOTA,

As Amended by Subsequent Legislation.

PREPARED BY
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EDITED AND PUBLISHED UNDER THE AUTHORITY OF CHAPTER 67 OF THE LAWS
OF 1878, AND CHAPTER 67 OF THE LAWS OF 1879.

FOURTH EDITION.

WITH SUPPLEMENTS,
CONTAINING ALL THE GENERAL LAWS IN FORCE UP TO THE END OF
THE LEGISLATIVE SESSION OF 1883.

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CHAPTER XVI.
INTOXICATING LIQUORS.

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§ 1. Licenses for sale of liquors—vote of township. The board of county commissioners may grant licenses for the sale, in any quantity, of spirituous, vinous, or fermented and malt liquors within their proper counties, to any person of the age of twenty-one years, upon his complying with the conditions of the next section: *provided*, that nothing herein contained shall be so construed as to prevent the people of any municipal township from deciding for themselves whether license shall be granted to any person or persons in said township; and the town clerk is hereby required, on the petition of ten or more legal voters of said township, at any time not less than twenty days before any annual town meeting, to give notice that the question of license will be submitted at said election; and notice thereof shall be given by said town clerk at the same time and in the same manner that notice of annual town meetings are given; and said question of license shall be determined by ballots, containing the words "in favor of license," or "against license," (as the case may be,) which vote shall be canvassed and returned as is by law prescribed for canvassing election returns; and if such returns show that a majority of the votes cast at said election shall be against license, then it shall be the duty of the town clerk to notify the county auditor thereof, and in such case the board of county commissioners shall grant no license in said township. (*As amended 1875, c. 112, § 1.*)

16 M. 381; 23 M. 140.

§ 2. Fee for license—bond to be given. Any person applying for license to sell intoxicating liquors shall, before the same is issued, pay to the county treasurer of the proper county a sum not greater than one hundred dollars nor less than twenty-five dollars per annum, at the discretion of the board of county commissioners, and shall file with the clerk thereof a bond with two or more sureties, to be approved by the board, in the penal sum of five hundred dollars, conditioned that the said person so licensed will not sell or otherwise dispose of spirituous, intoxicating or malt liquors, (as the case may be,) at any place other than the building or town for which said person is licensed, nor on the sabbath, nor on any general or special election day, and that he will keep a quiet and orderly house, and not permit gambling with cards or any other device for money or the representative of money, in the house or place of business of such person, and will not sell, barter, furnish nor give away such liquors to any minor person, pupil or student in any public school, academy, seminary, or other institution of learning, nor to any intemperate person or habitual drunkard. (*As amended 1872, c. 61, § 1.*)

16 M. 381.

§ 3. **Revocation of license.** The board of county commissioners may revoke any license granted under the provisions of this chapter, whenever they deem it proper; and every license granted by any board of commissioners shall cease to be in force from and after any violation of any of the conditions of the bond required by this chapter is proved before any court having competent jurisdiction; and thereafter the person who has so violated the conditions of the said bond shall be liable to all the penalties imposed on persons selling liquors without license, and shall be further liable for all damages done by persons intoxicated by liquors obtained from him; and the sureties on said bond shall be jointly and severally liable with the principal for the payment of said damages, to be recovered in a civil action. (*As amended 1872, c. 61, § 2.*)

§ 4. **Selling liquor without license—penalty.** Whoever sells or barterers any spirituous, vinous, fermented or malt liquors, in a less quantity than five gallons, without first having obtained license therefor, agreeably to the provisions of this chapter, or disposes of any spirituous, vinous, fermented or malt liquors, under any pretext, or in any manner, shall be deemed guilty of a misdemeanor, and shall, upon conviction thereof in any court having jurisdiction of the same, be fined for every such offence in any sum not exceeding one hundred dollars, nor less than twenty-five dollars, for the use of common schools in the county where the offence is committed; and upon default of the payment of such fine, he shall be committed to the county jail for a term not exceeding sixty days, or until such fine is paid. (*As amended 1867, c. 103, § 1.*)

23 M. 140.
§ 5. **County officers to make complaint.** County attorneys, sheriffs and constables, having knowledge of any violation of the provisions of this chapter, shall make complaint thereof to a justice of the peace of the proper county. The county attorney shall also prosecute the bond given by such applicant for any violation of its conditions.

§ 6. **Violation of official duty—penalty.** If any judge, sheriff, justice of the peace, constable or other officer wilfully neglects or refuses to perform any duty required of him by this chapter, he shall be deemed guilty of a malfeasance in office, and shall thereafter be disqualified for holding the same for and during the remainder of the term for which he was elected, and shall be liable on his bond in any amount not exceeding five hundred dollars, nor less than one hundred dollars, recoverable in any court having jurisdiction.

§ 7. **Commissioners liable on judgment on bond, unless sureties justify.** When any action is brought and judgment rendered against the principal and sureties upon such bond, and property cannot be found, to satisfy said judgment, the board of county commissioners who approved said bond shall be held individually liable for said judgment, unless the sureties on said bond testified before some judge of the district court, or justice of the peace, that at the time of joining in said bond by them, they were worth double the amount mentioned therein, above all debts and liabilities incurred by them, and exclusive of property exempt from execution.

§ 8. **Clerk to keep list of persons licensed.** The clerk of the board of county commissioners of each county shall make and keep in his office an accurate list of all persons holding licenses under the provisions of this chapter, within his county, which list shall show the date of and the amount paid for each of said licenses respectively, and shall be open to the inspection of any resident of said county, without charge or expense.

§ 9. **Jurisdiction of justices.** Justices of the peace shall have original jurisdiction in all actions arising under the provisions of this chapter, or on the bond aforesaid, when the amount sued for does not exceed one hundred dollars.

§ 10. **Furnishing liquor to minors, students and drunkards—penalty.** It shall be unlawful for any person to sell, give, barter, furnish or dispose of, in any manner, either directly or indirectly, any spirituous, vinous, malt or fermented liquors, in any quantity whatever, to any minor person, or to any student or pupil in

any public school, seminary, academy, or other institution of learning in this state, or to any habitual drunkard. And any person violating any of the provisions of this section shall be guilty of a misdemeanor, and, on conviction thereof by any court having jurisdiction, shall be punished by fine of not less than twenty-five dollars, or more than one hundred dollars, or by imprisonment in the county jail not less than thirty nor more than ninety days, or until such fine is paid. And any parent, husband, wife, child, master or guardian having minors, minor servants or wards in charge, or any one annoyed or injured by means of the intoxication of any parent, husband, wife, child, minor, ward or student, or any habitual drunkard, may give a distinct written notice to any tavern, hotel-keeper, merchant, grocer, saloon-keeper, distiller, brewer, or any other person having or keeping any such intoxicating liquors, forbidding him from directly or indirectly furnishing the person or persons named in the notice with any kind of intoxicating liquor; and if, within one year after such notice, any one to whom such notice was given furnishes, directly or indirectly, or causes to be furnished, any such intoxicating liquors to the person or persons named in such notice, he shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be punished by fine not less than fifty dollars, nor more than one hundred dollars, or in default of payment, by imprisonment in the county jail not less than thirty nor more than ninety days, or both, in the discretion of the court; and his license shall be revoked, and shall not be regrantd for one year thereafter. (*As amended 1877, c. 44, § 1.*)

23 M. 81.

§ 11. **Prosecutions under this chapter—evidence.** In the matter of prosecution for any violation of any of the provisions of this chapter, it shall not be necessary to prove the name or kind of intoxicating liquors sold; and in all suits or prosecutions under any of the provisions of this chapter, the finding of intoxicating liquors on the premises in question shall be *prima facie* evidence of their sale on such premises; and establishing the fact of one's having drunk what appeared to be intoxicating liquors on any premises shall be *prima facie* evidence that such liquor was intoxicating, and shall be taken as proof conclusive, unless defendant furnishes positive proof to the contrary; and the term intoxicating liquor, wherever it occurs in this chapter, shall be understood to mean spirituous, vinous, malt and fermented liquors. (*As amended 1877, c. 44, § 2.*)

23 M. 81; 181; 549.

§ 12. **Penalty doubled after first conviction.** Upon the second and each subsequent conviction of any violation of the two preceding sections, the penalties aforesaid shall be doubled.

§ 13. **Selling liquor to Indians—penalty.** Whoever sells, exchanges, gives, barter or disposes of any spirituous liquors or wines, to any Indians within this state, shall, on conviction thereof, be punished by imprisonment in the state prison for a period not exceeding two years, and be fined not more than three hundred dollars; and in all cases arising under this section, Indians shall be competent witnesses.

§ 14. **County officers to make complaint, etc.** Sheriffs, constables and justices of the peace are, under penalty of forfeiting their respective offices, required to make complaint of such violations of the provisions of the preceding section as may come to their knowledge, and the judges of the several district courts are required to give the preceding section in special charge to the grand juries of the several counties in their districts.

*§ 15. **Penalties—how enforced.** The penalties imposed by this chapter may be enforced by indictment and trial in any of the district courts of this state. (*1872, c. 61, § 4.*)

*§ 16. **Druggists, &c., subject to this act.** All keepers of drug stores, dispensaries, apothecary shops, or other business houses in any manner dealing in spirituous, vinous or malt liquors, for whatever purpose, shall be subjected to all the conditions, liabilities and penalties prescribed for or imposed upon other persons by this act. (*Id. § 5.*)

*§ 17. **Sale of liquor at capitol forbidden.** That no person or persons shall be allowed to sell, barter or give away any spirituous, vinous, fermented or malt liquors, during the sessions of the legislature, within the capitol buildings, or upon the grounds of the same. (1866. c. 40, § 1.)

*§ 18. **Same—penalty for selling, etc.** Any person or persons who shall sell, barter, or in any way furnish any spirituous, vinous, fermented or malt liquors, with the intention of evading the provisions of this act, shall be deemed to have committed a misdemeanor, and, upon conviction thereof by any court having jurisdiction of the same, shall be fined for each and every such offence in a sum not exceeding fifty nor less than twenty-five dollars, and, in default of the same, shall be imprisoned in Ramsey county jail not less than thirty nor more than sixty days; all fines collected under the provisions of this act shall be expended by the proper officer in the purchase of books for the state library. (*Id.* § 2.)

*§ 19. **Hours for closing saloons—minors.** All persons heretofore, or that may hereafter be licensed to sell intoxicating liquors in this state, whether such license has been or may be granted by the board of county commissioners of any county, or by the officers of any city, village or town of this state, as the case may be, are hereby required to close their place of business (hotels excepted) at eleven o'clock at night, and keep the same closed until five o'clock in the morning; and it is hereby made unlawful, between the hours last named, for persons so licensed as aforesaid to sell, give away, or otherwise dispose of, any fermented or intoxicating liquors at their said places of business, or to permit the throwing of dice or playing of cards therein, by any minor at any time. (1878, c. 75. § 1.)

*§ 20. See 1881 Sup't., p. 36.

*§ 20. **Same, penalty.** That any person who shall violate any of the provisions of the foregoing section shall pay a fine of not less than ten dollars and not more than fifty dollars, besides the costs of the prosecution, for each and every such violation. (*Id.* § 2.)

*§ 21. **Justices of peace have jurisdiction.** That all justices of the peace of this state shall have jurisdiction to enforce the provisions of this act; and such justices shall, in addition to the foregoing penalty, revoke the license of any person so offending. (*Id.* § 3.)

*§ 22. **Prosecutions.** It is hereby made the duty of the county attorney of the several counties of this state to prosecute all violations of this act, upon complaint being made before any justice of the peace. (*Id.* § 4.)

CHAPTER XVII.

BASTARDS.

SECTION.

- 1-3. Complaint by woman—warrant—proceedings—security by defendant.
4-6. Recognizance required of defendant—trial and judgment in district court.
7. Defendant to give bond or be committed.
8-12. Application by prisoner for discharge—hear-

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- ing—discharge, when granted—action against discharged prisoner.
13-14. Complaint by commissioners—proceedings before justice—warrant.
15. Commissioners may make compromise.

§ 1. **Complaint by female before justice—warrant to issue.** On complaint being made to any justice of the peace, by any female who is delivered of a bastard child, or pregnant with a child, which, if born alive, might be a bastard, accusing any person of being the father of such child, the justice shall take such complaint