

CHAPTER 340A

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DEFINITIONS

340A.101 DEFINITIONS.

Subdivision 1. **Terms.** For purposes of this chapter the following terms have the meanings given them.

Subd. 2. **Alcoholic beverage.** "Alcoholic beverage" is any beverage containing more than one-half of one percent alcohol by volume.

Subd. 3. **Affiliate or subsidiary company.** "Affiliate or subsidiary company" is a company in which a manufacturer or its stockholders own a majority of the stock.

Subd. 4. **Brewer.** "Brewer" is a person who manufactures malt liquor for sale.

Subd. 5. **City.** "City" is a home rule charter or statutory city unless otherwise specified.

Subd. 6. **Commissioner.** "Commissioner" is the commissioner of public safety except as otherwise provided.

Subd. 7. **Club.** "Club" is an incorporated organization organized under the laws

of the state for civic, fraternal, social, or business purposes, for intellectual improvement, or for the promotion of sports, or a congressionally chartered veterans' organization, which:

- (1) has more than 50 members;
- (2) has owned or rented a building or space in a building for more than one year that is suitable and adequate for the accommodation of its members;
- (3) is directed by a board of directors, executive committee, or other similar body chosen by the members at a meeting held for that purpose. No member, officer, agent, or employee shall receive any profit from the distribution or sale of beverages to the members of the club, or their guests, beyond a reasonable salary or wages fixed and voted each year by the governing body.

Subd. 8. Department. "Department" is the department of public safety except as otherwise provided.

Subd. 9. Distilled spirits. "Distilled spirits" is ethyl alcohol, hydrated oxide of ethyl, spirits of wine, whiskey, rum, brandy, gin, and other distilled spirits, including all dilutions and mixtures thereof, for nonindustrial use.

Subd. 10. Exclusive liquor store. "Exclusive liquor store" is an establishment used exclusively for the sale of intoxicating liquor except for the incidental sale of ice, tobacco, 3.2 percent malt liquor, beverages for mixing with intoxicating liquor, soft drinks, liqueur-filled candies, cork extraction devices, and books and videos on the use of alcoholic beverages in the preparation of food, and the establishment may offer recorded or live entertainment. "Exclusive liquor store" also includes an on-sale or combination on-sale and off-sale intoxicating liquor establishment which sells food for on-premise consumption when authorized by the municipality issuing the license.

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

Subd. 12. General food store. "General food store" is a business primarily engaged in selling food and grocery supplies to the public for off-premise consumption.

Subd. 13. Hotel. "Hotel" is an establishment where food and lodging are regularly furnished to transients and which has:

- (1) a resident proprietor or manager;
- (2) a dining room serving the general public at tables and having facilities for seating at least 30 guests at one time; and
- (3) guest rooms in the following minimum numbers: in first class cities, 50; in second class cities, 25; in all other cities, 10.

Subd. 14. Intoxicating liquor. "Intoxicating liquor" is ethyl alcohol, distilled, fermented, spirituous, vinous, and malt beverages containing more than 3.2 percent of alcohol by weight.

Subd. 15. Licensed premises. "Licensed premises" is the premises described in the approved license application. In the case of a restaurant, club, or exclusive liquor store licensed for on-sales of alcoholic beverages and located on a golf course, "licensed premises" means the entire golf course except for areas where motor vehicles are regularly parked or operated.

Subd. 15a. Low alcohol malt liquor. "Low alcohol malt liquor" is a fermented malt beverage containing two percent or less of alcohol by weight. Notwithstanding any law or rule to the contrary, if either; (a) the term "low alcohol" appears on the label of the beverage container; or (b) a brewer has provided written certification to the department of public safety establishing an alcoholic content of two percent or less by weight; no further label shall be required on that container.

Subd. 15b. Liqueur-filled candy. "Liqueur-filled candy" is any confectionery containing more than one-half of one percent alcohol by volume in liquid form that is intended for or capable of beverage use.

Subd. 16. Malt liquor. "Malt liquor" is any beer, ale, or other beverage made from

malt by fermentation and containing not less than one-half of one percent alcohol by volume.

Subd. 17. **Manufacturer.** "Manufacturer" is a person who, by a process of manufacture, fermenting, brewing, distilling, refining, rectifying, blending, or by the combination of different materials, prepares or produces intoxicating liquor for sale.

Subd. 18. **Municipality.** "Municipality" is a city, county or, for purposes of licensing under section 340A.404, subdivision 7, the metropolitan airports commission.

Subd. 19. **3.2 percent malt liquor.** "3.2 percent malt liquor" is malt liquor containing not less than one-half of one percent alcohol by volume nor more than 3.2 percent alcohol by weight.

Subd. 20. **Off-sale.** "Off-sale" is the sale of alcoholic beverages in original packages for consumption off the licensed premises only.

Subd. 21. **On-sale.** "On-sale" is the sale of alcoholic beverages for consumption on the licensed premises only.

Subd. 22. **Package.** "Package" is a sealed or corked container of alcoholic beverages.

Subd. 23. **Person.** "Person" has the meaning given it in section 645.44, subdivision 7.

Subd. 24. **Population.** "Population" is determined by the most recent federal decennial census or a special census taken under law.

Subd. 25. **Restaurant.** "Restaurant" is an establishment, other than a hotel, under the control of a single proprietor or manager, where meals are regularly served at tables to the general public, and having seating capacity for guests in the following minimum numbers:

- | | |
|--|-----|
| (a) First class cities | 50 |
| (b) Second and third class cities
and statutory cities of over
10,000 population | 30 |
| (c) Unincorporated or unorganized
territory other than in Cook,
Itasca, Lake, Lake of the Woods,
and St. Louis counties | 100 |
| (d) Unincorporated or unorganized
territory in Cook, Itasca, Lake,
Lake of the Woods, and St. Louis
counties | 50 |

In the case of classes (b) and (c) above, the governing body of a city or county may prescribe a higher minimum number. In fourth class cities and statutory cities under 10,000 population, minimum seating requirements are those prescribed by the governing body of the city.

Subd. 26. **Retail.** "Retail" is sale for consumption.

Subd. 27. **Table or sparkling wine.** "Table or sparkling wine" is a beverage made without rectification or fortification and containing not more than 25 percent of alcohol by volume and made by the fermentation of grapes, grape juice, other fruits, or honey.

Subd. 28. **Wholesaler.** "Wholesaler" is a person who sells alcoholic beverages to persons to whom sale is permitted under section 340A.310, from a stock maintained in a warehouse in the state.

Subd. 29. **Wine.** "Wine" is sparkling and carbonated wine, wine made from condensed grape must, wine made from other agricultural products than sound, ripe grapes, imitation wine, compounds sold as wine, vermouth, cider, perry and sake, in each instance containing not less than seven percent nor more than 24 percent alcohol by volume for nonindustrial use.

History: 1985 c 117 s 3; 1985 c 305 art 3 s 1; 1Sp1985 c 16 art 2 s 3 subd 1; 1987 c 152 art 1 s 1; 1987 c 381 s 2; 1988 c 443 s 1; 1990 c 554 s 2,3; 1991 c 249 s 31; 1992 c 486 s 5,6

DEPARTMENT OF PUBLIC SAFETY

340A.201 LIQUOR CONTROL AUTHORITY.

The commissioner of public safety is the successor to the commissioner of liquor control with respect to the powers and duties vested in the latter as of February 6, 1976, except for those powers and duties transferred to the commissioner of revenue. Any proceeding, court action, prosecution, or other business undertaken or commenced as of February 6, 1976, by the commissioner of liquor control is assigned to the commissioners of public safety and revenue as appropriate and may be completed by them.

History: 1985 c 305 art 4 s 1; 1987 c 152 art 1 s 1

MANUFACTURERS, WHOLESALERS, IMPORTERS**340A.301 MANUFACTURERS AND WHOLESALERS LICENSES.**

Subdivision 1. Licenses required. No person may directly or indirectly manufacture or sell at wholesale intoxicating liquor, or 3.2 percent malt liquor without obtaining an appropriate license from the commissioner, except where otherwise provided in this chapter. A manufacturer's license includes the right to import. A licensed brewer may sell the brewer's products at wholesale only if the brewer has been issued a wholesaler's license. The commissioner shall issue a wholesaler's license to a brewer only if (1) the commissioner determines that the brewer was selling the brewer's own products at wholesale in Minnesota on January 1, 1991, or (2) the brewer has acquired a wholesaler's business or assets under subdivision 7a, paragraph (c) or (d). A licensed wholesaler of intoxicating malt liquor may sell 3.2 percent malt liquor at wholesale without an additional license.

Subd. 2. Persons eligible. Licenses under this section may be issued only to a person who:

- (1) is a citizen of the United States or a resident alien;
- (2) is of good moral character and repute;
- (3) is 21 years of age or older;

(4) has not had a license issued under this chapter revoked within five years of the date of license application, or to any person who at the time of the violation owns any interest, whether as a holder of more than five percent of the capital stock of a corporation licensee, as a partner or otherwise, in the premises or in the business conducted thereon, or to a corporation, partnership, association, enterprise, business, or firm in which any such person is in any manner interested; and

(5) has not been convicted within five years of the date of license application of a felony, or of a willful violation of a federal or state law, or local ordinance governing the manufacture, sale, distribution, or possession for sale or distribution of alcoholic beverages.

Subd. 3. Application. An application for a license under this section must be made to the commissioner on a form the commissioner prescribes.

Subd. 4. Bond. The commissioner may not issue a license under this section to a person who has not filed a bond with corporate surety, or cash, or United States government bonds payable to the state. The proof of financial responsibility must be approved by the commissioner before the license is issued. The bond must be conditioned on the licensee obeying all laws governing the business and paying when due all taxes, fees, penalties and other charges, and must provide that it is forfeited to the state on a violation of law. Bonds must be in the following amounts:

Manufacturer's and wholesalers of intoxicating liquor except as provided in this subdivision	\$10,000
Manufacturers and wholesalers of wine up to 25 percent alcohol by weight	\$ 5,000

Manufacturers and wholesalers of beer
of more than 3.2 percent alcohol by
weight \$ 1,000

Subd. 5. **Period of license.** Licenses issued under this section are valid for one year except that to coordinate expiration dates initial licenses may be issued for a shorter period.

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

(a) Manufacturers (except as provided in clauses (b) and (c))	\$15,000
Duplicates	\$ 3,000
(b) Manufacturers of wines of not more than 25 percent alcohol by volume	\$ 500
(c) Brewers other than those described in clause (d)	\$ 2,500
(d) Brewers who also hold a retail on-sale license and who manufacture fewer than 2,000 barrels of malt liquor in a year, the entire production of which is solely for consumption on tap on the licensed premises	\$ 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	\$ 2,000
(g) Wholesalers of intoxicating malt liquor	\$ 600
Duplicates	\$ 25
(h) Wholesalers of 3.2 percent malt liquor	\$ 10

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.

Subd. 7. **Interest in other business.** (a) Except as provided in this subdivision, a holder of a license as a manufacturer, brewer, or wholesaler may not have any ownership, in whole or in part, in a business holding a retail intoxicating liquor or 3.2 percent malt liquor license. The commissioner may not issue a license under this section to a manufacturer, brewer, or wholesaler if a retailer of intoxicating liquor has a direct or indirect interest in the manufacturer, brewer, or wholesaler. A manufacturer or wholesaler of intoxicating liquor may use or have property rented for retail intoxicating liquor sales only if the manufacturer or wholesaler has owned the property continuously since November 1, 1933. A retailer of intoxicating liquor may not use or have property rented for the manufacture or wholesaling of intoxicating liquor.

(b) A licensed brewer of malt liquor described in subdivision 6, clause (d) may be issued an on-sale intoxicating liquor or 3.2 percent malt liquor license by a municipality for a restaurant operated in or immediately adjacent to the place of manufacture.

(c) Except as provided in subdivision 7a, no brewer as defined in subdivision 7a may have any interest, in whole or in part, directly or indirectly, in the license, business, assets, or corporate stock of a licensed malt liquor wholesaler.

Subd. 7a. **Permitted interests in wholesale business.** (a) A brewer may financially assist a wholesaler of malt liquor through participation in a limited partnership in which the brewer is the limited partner and the wholesaler is the general partner. A limited partnership authorized in this paragraph may not exist for more than ten years from the date of its creation, and may not, directly or indirectly, be recreated, renewed, or extended beyond that date.

(b) A brewer may financially assist a malt liquor wholesaler and collateralize the financing by taking a security interest in the inventory and assets, other than the corporate stock, of the wholesaler. A financial agreement authorized by this paragraph may not be in effect for more than ten years from the date of its creation and may not be directly or indirectly extended or renewed.

(c) A brewer who, after creation of a financial agreement authorized by paragraph (b), or after creation of a limited partnership authorized in paragraph (a), acquires legal or equitable title to the wholesaler's business which was the subject of the agreement or limited partnership, or to the business assets, must divest the business or its assets within two years of the date of acquiring them. A malt liquor wholesaler whose business or assets are acquired by a brewer as described in this paragraph may not enter into another such financial agreement, or participate in another such limited partnership, for 20 years from the date of the acquisition of the business or assets.

(d) A brewer may have an interest in the business, assets, or corporate stock of a malt liquor wholesaler as a result of (1) a judgment against the wholesaler arising out of a default by the wholesaler or (2) acquisition of title to the business, assets, or corporate stock as a result of a written request of the wholesaler. A brewer may maintain ownership of or an interest in the business, assets, or corporate stock under this paragraph for not more than two years and only for the purpose of facilitating an orderly transfer of the business to an owner not affiliated with the brewer.

(e) A brewer may continue to maintain an ownership interest in a malt liquor wholesaler if it owned the interest on January 1, 1991.

(f) A brewer that was legally selling the brewer's own products at wholesale in Minnesota on January 1, 1991, may continue to sell those products at wholesale in the area where it was selling those products on that date.

(g) A brewer that manufactures malt liquor in Minnesota may, if the brewer does not manufacture in Minnesota in any year more than 25,000 barrels of malt liquor or its metric equivalent, own or have an interest in a malt liquor wholesaler that sells only the brewer's products.

(h) When the commissioner issues a license to a malt liquor wholesaler described in paragraph (a) or (b), the commissioner may issue the license only to the entity which is actually operating the wholesale business and may not issue the license to a brewer that is a limited partner under paragraph (a) or providing financial assistance under paragraph (b) unless the brewer has acquired a wholesaler's business or assets under paragraph (c) or (d).

(i) For purposes of this subdivision and subdivision 7, clause (c), "brewer" means:

(1) a holder of a license to manufacture malt liquor;

(2) an officer, director, agent, or employee of such a license holder; and

(3) an affiliate of such a license holder, regardless of whether the affiliation is corporate or by management, direction, or control.

Subd. 8. Sales without license. A licensed brewer may without an additional license sell malt liquor to employees or retired former employees, in amounts of not more than 768 fluid ounces in a week for off-premise consumption only. A collector of commemorative bottles, those terms are as defined in section 297C.01, subdivisions 4 and 5, may sell them to another collector without a license. It is also lawful for a collector of beer cans to sell unopened cans of a brand which has not been sold commercially for at least two years to another collector without obtaining a license. The amount sold to any one collector in any one month shall not exceed 768 fluid ounces. A licensed manufacturer of wine containing not more than 25 percent alcohol by volume nor less than 51 percent wine made from Minnesota-grown agricultural products may sell at on-sale or off-sale wine made on the licensed premises without a further license.

Subd. 9. Unlicensed manufacture. Nothing in this chapter requires a license for the natural fermentation of fruit juices or brewing of beer in the home for family use.

History: 1985 c 305 art 5 s 1; 1985 c 308 s 1; 1Sp1985 c 16 art 2 s 3 subd 1; 1986

c 330 s 4; 1987 c 152 art 1 s 1; 1987 c 249 s 1,2; 1990 c 554 s 4-6; 1991 c 249 s 1,31; 1992 c 513 art 3 s 53

340A.302 IMPORTERS.

Subdivision 1. **Licenses required.** Except as provided in sections 297C.09 and 340A.301, subdivision 1, no retailer or other person may ship or cause to be shipped alcoholic beverages or ethyl alcohol for personal use or to a licensed manufacturer or wholesaler without obtaining an importer's license from the commissioner.

Subd. 2. **Terms; application.** Importers' licenses must be applied for on a form the commissioner prescribes. The form must contain, along with information the commissioner requires, an agreement on the part of the applicant to obey all laws relating to the importation and sale of intoxicating liquor.

Subd. 3. **Fees.** Annual fees for licenses under this section are as follows:

Importers of distilled spirits, wine, or ethyl alcohol	\$420
Importers of malt liquor	\$800

Subd. 4. [Repealed, 1991 c 326 s 27]

History: *1985 c 305 art 5 s 2; 1987 c 152 art 1 s 1; 1987 c 310 s 2; 1992 c 513 art 3 s 54*

340A.303 TRANSFERS.

A license under section 340A.301 or 340A.302 may be transferred only with the commissioner's consent. When a licensee is a corporation a change in ownership of more than ten percent of its stock must be reported to the commissioner within ten days of the change.

History: *1985 c 305 art 5 s 3; 1987 c 152 art 1 s 1*

340A.304 LICENSE SUSPENSION AND REVOCATION.

The commissioner shall revoke, or suspend for up to 60 days, a license issued under section 340A.301 or 340A.302, or impose a fine of up to \$2,000 for each violation, on a finding that the licensee has violated a state law or rule of the commissioner relating to the possession, sale, transportation, or importation of alcoholic beverages. A license revocation or suspension under this section is a contested case under sections 14.57 to 14.69 of the administrative procedure act.

History: *1985 c 305 art 5 s 4; 1985 c 309 s 11; 1Sp1985 c 16 art 2 s 3 subd 1; 1987 c 152 art 1 s 1; 1987 c 384 art 2 s 1*

340A.305 WAREHOUSING.

Subdivision 1. **Facilities.** All licensed wholesalers must own or lease warehouse space within the state and must have adequate delivery facilities to perform the function of a wholesaler.

Subd. 2. **Unloading.** Except as provided in this chapter alcoholic beverages manufactured outside the state may be shipped into the state only to licensed wholesalers and must be unloaded into the wholesaler's warehouse located in the state. Licensed wholesalers may distribute alcoholic beverages only from the warehouse.

Subd. 3. **Reciprocity.** The provisions of this section relating to warehousing do not apply to a wholesaler of malt liquor located in an adjoining state which permits wholesalers licensed in Minnesota to deliver malt liquor to retailers without warehousing in that state.

Subd. 4. **Direct shipment.** Notwithstanding the provisions of this section, a manufacturer or United States importer of intoxicating liquor manufactured outside Minnesota may authorize, on a form the commissioner prescribes, a Minnesota-licensed manufacturer or wholesaler to purchase intoxicating liquor for direct shipment to another state, or may appoint a Minnesota-licensed manufacturer or wholesaler as its

agent to sell or deliver intoxicating liquor to purchasers in other states from the Minnesota warehouse inventory of the Minnesota manufacturer or wholesaler.

History: 1985 c 305 art 5 s 5; 1987 c 152 art 1 s 1

340A.306 FRAUDULENT SHIPMENTS.

(a) It is unlawful for:

(1) any person to knowingly deliver or cause to be delivered to a common carrier alcoholic beverages under a false title, name, brand, or trademark; or

(2) any person, or a common carrier, or an agent of either to knowingly receive a fraudulent shipment under clause (1).

(b) A peace officer may examine the books and way bills of a common carrier for the purpose of tracing a fraudulent shipment to a shipper or receiver.

History: 1985 c 305 art 5 s 6; 1987 c 152 art 1 s 1

340A.307 UNLAWFUL DISCRIMINATION.

Subdivision 1. **Nondiscriminatory sales.** All licensed importers must offer for sale on an equal basis to all licensed wholesalers and manufacturers all intoxicating liquor brought into the state of Minnesota.

Subd. 2. **Prohibited practices.** Without limiting subdivision 1, the following are failures to offer intoxicating liquor for sale on an equal basis and are unlawful:

(a) A refusal to sell to a wholesaler or manufacturer intoxicating liquor offered for sale to any other wholesaler or manufacturer, except when a wholesaler or manufacturer is in arrears on payments for past purchases from the importer who refuses to sell.

(b) A sale of intoxicating liquor to a wholesaler or manufacturer at a price different from that offered to another wholesaler or manufacturer, exclusive of shipping costs, except that quantity discounts based on actual cost savings may be uniformly offered to all wholesalers and manufacturers.

(c) A sale of intoxicating liquor to a wholesaler or manufacturer on terms of purchase different from those offered another wholesaler or manufacturer, except that when the importer reasonably believes that a wholesaler or manufacturer will be unable to comply with the existing terms of credit, other terms may be employed, including denial of credit.

(d) Discrimination among wholesalers and manufacturers in satisfying their respective demands for intoxicating liquor.

(e) A sale conditioned on an agreement which restricts the wholesaler or manufacturer with respect to customers, area for distribution, or resale price, or which otherwise restrains the wholesaler or manufacturer from competing in trade and commerce.

(f) For purposes of this subdivision and subdivision 1 only, the term "intoxicating liquor" does not include "pop wines" as they are defined by rule of the commissioner.

Subd. 3. [Repealed, 1987 c 310 s 14]

Subd. 4. **Exceptions.** Nothing in this section applies to

(a) wine or malt liquor of any alcohol content; or

(b) intoxicating liquor which is:

(1) further distilled, refined, rectified, or blended within the state; and

(2) bottled within the state and labeled with the importer's own labels after importation into the state.

History: 1985 c 305 art 5 s 7; 1987 c 152 art 1 s 1

340A.308 PROHIBITED TRANSACTIONS.

(a) No brewer or malt liquor wholesaler may directly or indirectly, or through an affiliate or subsidiary company, or through an officer, director, stockholder, or partner:

(1) give, or lend money, credit, or other thing of value to a retailer;

- (2) give, lend, lease, or sell furnishing or equipment to a retailer;
- (3) have an interest in a retail license; or
- (4) be bound for the repayment of a loan to a retailer.

(b) This section does not prohibit a manufacturer or wholesaler from:

- (1) furnishing, lending, or renting to a retailer outside signs, of a cost of up to \$400 excluding installation and repair costs;
- (2) furnishing, lending, or renting to a retailer inside signs and other promotional material, of a cost of up to \$300 in a year;
- (3) furnishing to or maintaining for a retailer equipment for dispensing malt liquor, including tap trailers, cold plates and other dispensing equipment, of a cost of up to \$100 per tap in a year;
- (4) using or renting property owned continually since November 1, 1933, for the purpose of selling intoxicating or 3.2 percent malt liquor at retail; or
- (5) extending customary commercial credit to a retailer in connection with a sale of nonalcoholic beverages only, or engaging in cooperative advertising agreements with a retailer in connection with the sale of nonalcoholic beverages only.

History: 1985 c 88 s 1,2; 1985 c 201 s 1,2; 1985 c 305 art 5 s 8; 1Sp1985 c 16 art 2 s 3 subd 1; 1987 c 152 art 1 s 1; 1987 c 310 s 3; 1987 c 328 s 1; 1988 c 556 s 1; 1991 c 249 s 31

340A.309 EXCLUSIVE CONTRACTS.

A manufacturer, brewer, or wholesaler may not directly or indirectly make an agreement with a retailer which binds the retailer to purchase the products of one manufacturer or brewer to the exclusion of the products of other manufacturers and brewers. A retailer who is a party to a violation of this section or who receives the benefits of a violation is equally guilty of a violation.

History: 1985 c 305 art 5 s 9; 1987 c 152 art 1 s 1

340A.310 SALES BY WHOLESALERS.

A wholesaler may sell intoxicating liquor or 3.2 percent malt liquor only to municipal liquor stores, government instrumentalities, or holders of alcoholic beverage licenses issued under this chapter.

History: 1985 c 305 art 5 s 10; 1987 c 152 art 1 s 1; 1991 c 249 s 31

340A.311 BRAND REGISTRATION.

(a) A brand of intoxicating liquor or 3.2 percent malt liquor may not be manufactured, imported into, or sold in the state unless the brand label has been registered with and approved by the commissioner. A brand registration must be renewed every three years in order to remain in effect. The fee for an initial brand registration is \$30. The fee for brand registration renewal is \$20. The brand label of a brand of intoxicating liquor or 3.2 percent malt liquor for which the brand registration has expired, is conclusively deemed abandoned by the manufacturer or importer.

(b) In this section "brand" and "brand label" include trademarks and designs used in connection with labels.

(c) The label of any brand of wine or intoxicating or nonintoxicating malt beverage may be registered only by the brand owner or authorized agent. No such brand may be imported into the state for sale without the consent of the brand owner or authorized agent. This section does not limit the provisions of section 340A.307.

History: 1985 c 305 art 5 s 11; 1987 c 152 art 1 s 1; 1991 c 249 s 2,31; 1992 c 513 art 3 s 55

340A.312 JOINT PURCHASES; VOLUME PRICES.

Subdivision 1. Joint purchases. The joint purchase by two or more licensed retail-

ers of up to 300, 1.75 liter or smaller, bottles of distilled spirits or wine for resale to the public is lawful.

Subd. 2. **Volume prices.** A variable volume price offered by a wholesaler to a licensed retailer on sales of distilled spirits or wine may not be for a quantity of more than 25 cases.

History: 1985 c 305 art 5 s 12; 1987 c 152 art 1 s 1; 1987 c 310 s 4

340A.313 [Repealed, 1987 c 310 s 14]

340A.314 SUGGESTED RETAIL PRICES.

No wholesaler or other person may communicate in any manner to an off-sale licensee a suggested retail price for the sale of intoxicating liquor.

History: 1985 c 305 art 5 s 14; 1987 c 152 art 1 s 1

340A.315 FARM WINERY LICENSE.

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 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.

Subd. 2. **Sales.** A license authorizes the sale, on the farm winery premises, of table or sparkling 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, 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.

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 wines produced by a farm winery.

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 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.

Subd. 5. [Repealed, 1985 c 12 s 2]

History: 1985 c 12 s 1; 1985 c 134 s 1; 1985 c 305 art 5 s 15; 1Sp1985 c 16 art 2 s 3 subd 1; 1987 c 152 art 1 s 1; 1992 c 513 art 3 s 56

340A.316 SACRAMENTAL WINE.

The commissioner may issue licenses for the importation and sale of wine exclusively for sacramental purposes. The holder of a sacramental wine license may sell wine only to a rabbi, priest, or minister of a church, or other established religious organization, or individual members of a religious organization who conduct ceremonies in their homes, if the purchaser certifies in writing that the wine will be used exclusively for sacramental purposes in religious ceremonies. The annual fee for a sacramental wine license is \$50.

A rabbi, priest, or minister of a church or other established religious organization may import wine exclusively for sacramental purposes without a license.

History: 1985 c 305 art 5 s 16; 1987 c 152 art 1 s 1; 1991 c 326 s 17; 1992 c 513 art 3 s 57

340A.317 LICENSING OF BROKERS.

Subdivision 1. **Definition.** "Broker" means a person who represents a distillery, winery, or importer, and is not an employee of the distillery, winery, or importer.

Subd. 2. **License required.** All brokers and their employees must obtain a license from the commissioner. The annual license fee for a broker is \$600, for an employee of a broker the license fee is \$20. An application for a broker's license must be accompanied by a written statement from the distillery, winery, or importer the applicant proposes to represent verifying the applicant's contractual arrangement, and must contain a statement that the distillery, winery, or importer is responsible for the actions of the broker. The license shall be issued for one year. The broker, or employee of the broker may promote a vendor's product and may call upon licensed retailers to insure product identification, give advance notice of new products or product changes, and share other pertinent market information. The commissioner may revoke or suspend for up to 60 days a broker's license or the license of an employee of a broker if the broker or employee has violated any provision of this chapter, or a rule of the commissioner relating to alcoholic beverages. The commissioner may suspend for up to 60 days, the importation license of a distillery or winery on a finding by the commissioner that its broker or employee of its broker has violated any provision of this chapter, or rule of the commissioner relating to alcoholic beverages.

Subd. 3. **Reports.** A distillery, winery, or broker must furnish within 60 days after the end of each month a report to the commissioner specifying for that month the type, quantity, date, and licensed retailers who received samples from the distillery, winery, or broker.

History: 1985 c 308 s 3; 1987 c 152 art 1 s 1; 1992 c 513 art 3 s 58

340A.318 CREDIT EXTENSIONS RESTRICTED.

Subdivision 1. **Restriction.** Except as provided in this section, no retail licensee may accept or receive credit, other than merchandising credit in the ordinary course of business for a period not to exceed 30 days, from a distiller, manufacturer, or wholesaler of distilled spirits or wine, or agent or employee thereof. No distiller, manufacturer or wholesaler may extend the prohibited credit to a retail licensee. No retail licensee delinquent beyond the 30-day period shall solicit, accept or receive credit or purchase or acquire distilled spirits or wine directly or indirectly, and no distiller, manufacturer or wholesaler shall knowingly grant or extend credit nor sell, furnish or supply distilled spirits or wine to a retail licensee who has been posted delinquent under subdivision 3. No right of action shall exist for the collection of any claim based upon credit extended contrary to the provisions of this section.

Subd. 2. **Reporting.** Every distiller, manufacturer or wholesaler selling to retailers shall submit to the commissioner in triplicate not later than Thursday of each calendar week a verified list of the names and addresses of each retail licensee purchasing distilled spirits or wine from that distiller, manufacturer, or wholesaler who, on the first day of that calendar week, was delinquent beyond the 30-day period, or a verified statement that no delinquencies exist which are required to be reported. The name and address of each retail licensee who makes payment with a postdated check, or a check that is dishonored on presentment, must also be submitted to the commissioner at that time. If a retail licensee previously reported as delinquent cures the delinquency by payment, the name and address of that licensee shall be submitted in triplicate to the commissioner not later than the close of the second full business day following the day the delinquency was cured.

Subd. 3. **Posting; notice.** Verified lists or statements required by subdivision 2 shall be posted by the commissioner in offices of the department in places available for public inspection not later than the day following receipt. Documents posted shall constitute notice to every distiller, manufacturer, or wholesaler of the information posted. Actual notice, however received, also constitutes notice.

Subd. 4. **Miscellaneous provisions.** The 30-day merchandising period allowed by

this section shall commence with the day immediately following the date of invoice and shall include all successive days, including Sundays and holidays, to and including the 30th successive day. In addition to other legal methods, payment by check during the period for which merchandising credit may be extended shall be considered payment. All checks received in payment for distilled spirits or wine shall be deposited promptly for collection. A postdated check or a check dishonored on presentation for payment does not constitute payment. A retail licensee shall not be deemed delinquent for any alleged sale in any instance where there exists a bona fide dispute between the licensee and the distiller, manufacturer or wholesaler as to the amount owing as a result of the alleged sale. A delinquent retail licensee who engages in the retail liquor business at two or more locations shall be deemed to be delinquent with respect to each location. A retail licensee who engages in the retail liquor business at two or more locations means "a person or group of persons possessing 50 percent or more ownership in two or more locations."

Subd. 5. License suspension or revocation. The license of any retail licensee, distiller, manufacturer or wholesaler violating any provision of this section shall be subject to suspension or revocation in the manner provided by this chapter.

History: 1986 c 465 art 2 s 7; 1987 c 152 art 1 s 1; 1987 c 310 s 5-7

RETAIL LICENSES

340A.401 LICENSE REQUIRED.

Except as provided in this chapter, no person may directly or indirectly, on any pretense or by any device, sell, barter, keep for sale, or otherwise dispose of alcoholic beverages as part of a commercial transaction without having obtained a license.

History: 1985 c 305 art 6 s 1; 1987 c 152 art 1 s 1

340A.402 PERSONS ELIGIBLE.

No retail license may be issued to:

- (1) a person not a citizen of the United States or a resident alien;
- (2) a person under 21 years of age;
- (3) a person who has had an intoxicating liquor or nonintoxicating liquor license revoked within five years of the license application, or to any person who at the time of the violation owns any interest, whether as a holder of more than five percent of the capital stock of a corporation licensee, as a partner or otherwise, in the premises or in the business conducted thereon, or to a corporation, partnership, association, enterprise, business, or firm in which any such person is in any manner interested;
- (4) a person not of good moral character and repute; or
- (5) a person who has a direct or indirect interest in a manufacturer, brewer, or wholesaler.

In addition, no new retail license may be issued to, and the governing body of a municipality may refuse to renew the license of, a person who, within five years of the license application, has been convicted of a willful violation of a federal or state law or local ordinance governing the manufacture, sale, distribution, or possession for sale or distribution of an alcoholic beverage.

History: 1985 c 305 art 6 s 2; 1986 c 330 s 5; 1987 c 152 art 1 s 1; 1989 c 49 s 1; 1991 c 249 s 3

340A.403 3.2 PERCENT MALT LIQUOR LICENSES.

Subdivision 1. Issuance by county or city. The governing body of a city or county may issue off-sale or on-sale licenses for the sale of 3.2 percent malt liquor within their respective jurisdictions.

Subd. 2. Temporary licenses. (a) A club or charitable, religious, or nonprofit organization may be issued a temporary on-sale license for the sale of 3.2 percent malt liquor.

(b) The temporary license may authorize the sale of 3.2 percent malt liquor in any school or school buildings.

(c) Temporary licenses are subject to the terms set by the issuing county or city.

Subd. 3. Exemption. (a) Any person licensed to sell intoxicating liquor at on-sale shall not be required to obtain an on-sale license under this section, and may sell nonintoxicating malt beverages at on-sale without further license.

(b) Any person licensed to sell intoxicating liquor at off-sale shall not be required to obtain an off-sale license under this section, and may sell nonintoxicating malt beverages at off-sale without further license.

History: 1985 c 117 s 1,2; 1985 c 305 art 6 s 3; 1Sp1985 c 16 art 2 s 3 subd 1; 1987 c 152 art 1 s 1; 1991 c 249 s 31

340A.404 INTOXICATING LIQUOR; ON-SALE LICENSES.

Subdivision 1. Cities. A city may issue an on-sale intoxicating liquor license to the following establishments located within its jurisdiction:

(1) hotels;

(2) restaurants;

(3) bowling centers;

(4) clubs or congressionally chartered veterans organizations with the approval of the commissioner, provided that the organization has been in existence for at least three years and liquor sales will only be to members and bona fide guests;

(5) sports facilities located on land owned by the metropolitan sports commission; and

(6) exclusive liquor stores.

Subd. 2. Special provision; city of Minneapolis. (a) The city of Minneapolis may issue an on-sale intoxicating liquor license to the Guthrie Theatre, the Cricket Theatre, the Orpheum Theatre, and the State 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 theatres 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, notwithstanding limitations of law, or local ordinances, or charter provision relating to zoning or school or church distances.

Subd. 2a. City of Minneapolis; arena. (a) Notwithstanding any other law, local ordinance, or charter provision, the city of Minneapolis may issue one or more on-sale or combination on-sale and off-sale intoxicating liquor licenses to the owner of the sports arena located at 600 First Avenue North in Minneapolis, or to an entity holding a concessions contract with the owner for use on the premises of that sports arena.

(b) The license authorizes sales on all days of the week to holders of tickets for events at the sports arena and to the owners of the sports arena and the owners' guests.

(c) The licensee may not dispense intoxicating liquor to any person attending or participating in an amateur athletic event held on the premises unless such dispensing is authorized by the city. The city may not authorize the dispensing of intoxicating liquor at any event held under the auspices of the Minnesota state high school league.

(d) The license authorized by this subdivision may be issued for space that is not compact and contiguous, provided that all such space is within the sports arena building and is included in the description of the licensed premises on the approved license application.

(e) Notwithstanding any law or rule to the contrary, a person licensed to make off-sales within the sports arena building may deliver alcoholic beverages to rooms and suites within the sports arena building (1) between midnight and 8:00 a.m. on Monday through Thursday, and (2) between midnight and 8:00 a.m. and between 10:00 p.m. and midnight on Friday through Sunday. No delivery authorized by this paragraph may be made to a room or suite within the building at any time when an event utilizing the room or suite is in progress.

(f) The holder of a license issued under this subdivision may dispense intoxicating liquor in miniature bottles if the intoxicating liquor is poured from the miniature bottles, mixed into another beverage, and dispensed on the premises by employees of the licensee.

Subd. 3. Notice to the commissioner. A city shall within ten days of the issuance of a license under subdivision 1 or 5, inform the commissioner of the licensee's name and address and trade name, and the effective date and expiration date of the license. The city shall also inform the commissioner of a license transfer, cancellation, suspension, or revocation during the license period.

Subd. 4. Special provisions; sports, conventions, or cultural facilities. The governing body of a municipality may authorize a holder of a retail on-sale intoxicating liquor license issued by the municipality or by an adjacent municipality to dispense intoxicating liquor at any convention, banquet, conference, meeting, or social affair conducted on the premises of a sports, convention, or cultural facility owned by the municipality or instrumentality thereof having independent policy making and appropriating authority and located within the municipality. The licensee must be engaged to dispense intoxicating liquor at an event held by a person or organization permitted to use the premises, and may dispense intoxicating liquor only to persons attending the event. The licensee may not dispense intoxicating liquor to any person attending or participating in an amateur athletic event held on the premises.

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.

Subd. 6. Counties. (a) A county board may issue an annual on-sale intoxicating liquor license within the area of the county that is unorganized or unincorporated to a bowling center, restaurant, or club with the approval of the commissioner.

(b) A county board may also with the approval of the commissioner issue up to ten seasonal on-sale licenses to restaurants and clubs for the sale of intoxicating liquor within the area of the county that is unorganized or unincorporated. Notwithstanding section 340A.412, subdivision 8, a seasonal license is valid for a period specified by the board, not to exceed nine months. Not more than one license may be issued for any one premises during any consecutive 12-month period.

Subd. 6a. [Repealed, 1991 c 249 s 33]

Subd. 7. Airports commission. On-sale licenses may be issued by the metropolitan airports commission for the sale of intoxicating liquor in major airports owned by the metropolitan airports commission and used as terminals for regularly scheduled air passenger service.

Subd. 8. Lake Superior tour boats. (a) The commissioner may issue an on-sale intoxicating liquor license to a person regularly engaged, on an annual or seasonal basis, in the business of offering tours by boat on Lake Superior and adjacent bays. The license shall authorize the sale of intoxicating liquor for consumption on the boat while underway or attached to a dock or other mooring. No license may be issued unless each boat used in the tour business regularly sells meals in the place where intoxicating liquor is sold.

(b) All sales of intoxicating liquor made on a boat while it is attached to a dock or other mooring are subject to any restrictions on the sale of liquor prescribed by the governing body of the city where the boat is attached, or of a county when it is attached outside a city. A governing body may prohibit liquor sales within its jurisdiction but may not require an additional license, or require a fee or occupation tax, for the sales.

(c) If a boat is moored for a period of at least three consecutive months, the city may require the boat to obtain an on-sale intoxicating liquor license from the city, and the fee charged for the license must not exceed one-half the fee charged for a comparable annual on-sale intoxicating liquor license.

Subd. 9. Military bases and installations. The commissioner may issue an on-sale license for the sale of intoxicating liquor within the boundaries of a military base or installation under the jurisdiction of the adjutant general with the approval of the adjutant general. No municipal or county license is required for the sale of intoxicating liquor under this subdivision.

Subd. 10. Temporary on-sale licenses. The governing body of a municipality may issue to a club or charitable, religious, or other nonprofit organization in existence for at least three years a temporary license for the on-sale of intoxicating liquor in connection with a social event within the municipality sponsored by the licensee. The license may authorize the on-sale of intoxicating liquor for not more than three consecutive days, and may authorize on-sales on premises other than premises the licensee owns or permanently occupies. The license may provide that the licensee may contract for intoxicating liquor catering services with the holder of a full-year on-sale intoxicating liquor license issued by any municipality. The licenses are subject to the terms, including a license fee, imposed by the issuing municipality. Licenses issued under this subdivision are subject to all laws and ordinances governing the sale of intoxicating liquor except section 340A.409 and those laws and ordinances which by their nature are not applicable. Licenses under this subdivision are not valid unless first approved by the commissioner of public safety.

A county under this section may issue a temporary license only to a premises located in the unincorporated or unorganized territory of the county.

Subd. 11. Removal of wine from restaurant. A restaurant licensed to sell intoxicating liquor or wine at on-sale under this section may permit a person purchasing a full bottle of wine in conjunction with the purchase of a meal to remove the bottle on leaving the licensed premises provided that the bottle has been opened and the contents partially consumed. A removal of a bottle under the conditions described in this subdivision is not an off-sale of intoxicating liquor and may be permitted without additional license.

History: 1985 c 201 s 3; 1985 c 305 art 6 s 4; 1Sp1985 c 16 art 2 s 3 subd 1; 1Sp1986 c 3 art 1 s 37; 1987 c 5 s 1,2; 1987 c 27 s 1; 1987 c 29 s 1; 1987 c 152 art 1 s 1; 1987 c 310 s 8; 1987 c 328 s 2; 1989 c 40 s 1; 1990 c 554 s 7-10; 1991 c 249 s 4-7,31; 1992 c 486 s 7

340A.405 INTOXICATING LIQUOR; OFF-SALE LICENSES.

Subdivision 1. Cities. A city may issue with the approval of the commissioner, an off-sale intoxicating liquor license to an exclusive liquor store or to a drugstore. A city of the first class may issue an off-sale license to a general food store to which an off-sale license had been issued on August 1, 1989.

Subd. 2. Counties. (a) A county may issue an off-sale intoxicating license with the

approval of the commissioner to exclusive liquor stores located within unorganized territory of the county.

(b) A county board of any county except Ramsey county containing a town exercising powers under section 368.01, subdivision 1, may issue an off-sale license to an exclusive liquor store within that town with the approval of the commissioner. No license may be issued under this paragraph unless the town board adopts a resolution supporting the issuance of the license.

(c) A county board of any county except Ramsey county containing a town that may not exercise powers under section 368.01, subdivision 1, may issue a combination off-sale and on-sale license to restaurants within that town with the approval of the commissioner pursuant to section 340A.404, subdivision 6. No license may be issued under this paragraph unless the town board adopts a resolution supporting the issuance of the license.

(d) No license may be issued under this subdivision unless a public hearing is held on the issuance of the license. Notice must be given to all interested parties and to any city located within three miles of the premises proposed to be licensed. At the hearing the county board shall consider testimony and exhibits presented by interested parties and may base its decision to issue or deny a license upon the nature of the business to be conducted and its impact upon any municipality, the character and reputation of the applicant, and the propriety of the location. Any hearing held under this paragraph is not subject to chapter 14.

(e) A county board may not issue a license under this subdivision to a person for an establishment located less than one mile by the most direct route from the boundary of any statutory or home rule city that had established a municipal liquor store before August 1, 1991, provided, that a county board may not issue a new license under this subdivision to a person for an establishment located less than three miles by the most direct route from the boundary of a city that (1) is located outside the metropolitan area as defined in section 473.121, subdivision 2, (2) has a population over 5,000 according to the most recent federal decennial census, and (3) had established a municipal liquor store before August 1, 1991.

(f) The town board may impose an additional license fee in an amount not to exceed 20 percent of the county license fee.

(g) Notwithstanding any provision of this subdivision or Laws 1973, chapter 566, as amended by Laws 1974, chapter 200, a county board may transfer or renew a license that was issued by a town board under Minnesota Statutes 1984, section 340.11, subdivision 10b, prior to January 1, 1985.

Subd. 3. Towns. The town board of a town within Ramsey county exercising powers under section 368.01, subdivision 1, within Ramsey county may issue an off-sale intoxicating liquor license with the approval of the commissioner to an exclusive liquor store located within the town.

Subd. 4. Temporary off-sale licenses; wine auctions. (a) The governing body of a city may issue a temporary license for the off-sale of wine at an auction with the approval of the commissioner. A license issued under this subdivision authorizes the sale of only vintage wine of a brand and vintage that is not commonly being offered for sale by any wholesaler in Minnesota. The license may authorize the off-sale of wine for not more than three consecutive days provided not more than 600 cases of wine are sold at any auction. The licenses are subject to the terms, including license fee, imposed by the issuing city. Licenses issued under this subdivision are subject to all laws and ordinances governing the sale of intoxicating liquor except section 340A.409 and those laws and ordinances which by their nature are not applicable.

(b) As used in the subdivision, "vintage wine" means bottled wine which is at least five years old.

Subd. 5. [Repealed, 1990 c 554 s 22]

Subd. 6. Airports commission. The metropolitan airports commission may with the approval of the commissioner issue licenses for the off-sale of wine at the Minneapolis-St. Paul International Airport.

History: 1985 c 263 s 1,2; 1985 c 305 art 6 s 5; 1Sp1985 c 16 art 2 s 3 subd 1; 1987

c 152 art 1 s 1; 1987 c 310 s 9,10; 1987 c 328 s 3; 1987 c 381 s 3; 1987 c 402 s 1; 1989 c 49 s 2; 1990 c 545 s 1; 1990 c 554 s 11,12; 1991 c 249 s 8,9

340A.4055 LICENSES IN INDIAN COUNTRY.

Notwithstanding any law to the contrary, on-sale or off-sale licenses for the sale of intoxicating liquor or 3.2 percent malt liquor issued by the governing body of an Indian tribe in accordance with United States Code, title 18, section 1161, to an Indian tribal member or Indian tribal entity for an establishment located within Indian country as defined under United States Code, title 18, section 1154, are valid. When a license is issued under this section, the issuing authority shall notify the commissioner of public safety of the name and address of the licensee. Upon receipt of the notice, the commissioner shall issue a retailer's identification card to the licensee to permit the licensee to purchase distilled spirits, wine, or malt beverages. An establishment issued a license under this section is not required to obtain a license from any municipality, county, or town.

History: 1985 c 308 s 2; 1Sp1985 c 16 art 2 s 3 subd 1; 1987 c 152 art 1 s 1; 1991 c 249 s 10,31; 1992 c 464 art 1 s 37

340A.406 INTOXICATING LIQUOR; COMBINATION LICENSES.

A city of the fourth class or a statutory city of 10,000 or fewer population may issue an off-sale and on-sale intoxicating liquor license to the same licensee or, in lieu of issuing on-sale and off-sale licenses separately to a licensee, may issue a combination on-sale and off-sale license. A city may continue to issue licenses under this subdivision when the population of the city exceeds 10,000 population.

History: 1985 c 305 art 6 s 6; 1987 c 152 art 1 s 1

340A.407 COMMON CARRIERS.

The commissioner may issue an on-sale license to a person certificated by either the state or the United States of America, or an agency thereof, as a common carrier engaged in the business of transporting persons for hire in interstate or intrastate commerce to sell intoxicating or 3.2 percent malt liquor in a place where meals are sold. A license issued under this subdivision only authorizes the sale of intoxicating or 3.2 percent malt liquor to a bona fide passenger who is actually being transported in interstate or intrastate commerce.

History: 1985 c 305 art 6 s 7; 1987 c 152 art 1 s 1; 1991 c 249 s 31

340A.408 RETAIL LICENSE FEES.

Subdivision 1. **3.2 percent malt liquor.** (a) The license fee for an on-sale and off-sale 3.2 percent malt liquor license is the fee set by the county or city issuing the license.

(b) One-half of the license fee received by a county for a retail license to sell 3.2 percent malt liquor within any town in the county shall be paid to the town board where the business is located.

Subd. 2. **Intoxicating liquor; on-sale.** (a) The license fee for a retail on-sale intoxicating liquor license is the fee set by the city or county issuing the license subject to the limitations imposed under this subdivision. The license fee is intended to cover the costs of issuing and inspecting and other directly related costs of enforcement.

(b) The annual license fee for an on-sale intoxicating liquor license issued by a municipality to a club must be no greater than:

- (1) \$300 for a club with under 200 members;
- (2) \$500 for a club with between 201 and 500 members;
- (3) \$650 for a club with between 501 and 1,000 members;
- (4) \$800 for a club with between 1,001 and 2,000 members;
- (5) \$1,000 for a club with between 2,001 and 4,000 members;
- (6) \$2,000 for a club with between 4,001 and 6,000 members; or

(7) \$3,000 for a club with over 6,000 members.

(c) The license fee for the issuance of a wine license may not exceed one-half of the license fee charged for an on-sale intoxicating liquor license, or \$2,000, whichever is less.

(d) The town board of a town in which an on-sale establishment has been licensed by a county may impose an additional license fee on each such establishment in an amount not to exceed 20 percent of the county license fee.

Subd. 3. Intoxicating liquor; off-sale. (a) The annual license fee for an off-sale intoxicating liquor license issued by a city, when combined with any occupation tax imposed by the city, may not exceed the following limits:

- (1) \$1,000 for cities of the first class;
- (2) \$200 for cities over 10,000 other than cities of the first class;
- (3) \$150 for cities of between 5,000 and 10,000 population; and
- (4) \$100 for cities with less than 5,000 population.

(b) The annual license fee for an off-sale intoxicating liquor license issued by a county or town shall not exceed \$500.

Subd. 3a. Fee increases; notice, hearing. No city, town, or county shall increase the fee for a liquor license governed by subdivision 1, 2, or 3, except after notice and hearing on the proposed increase. Notice of the proposed increase must be mailed to all affected licensees at least 30 days before the date set for the hearing. This subdivision supersedes any inconsistent provision of law or charter.

Subd. 4. Lake Superior tour boats; common carriers. (a) The annual license fee for licensing of Lake Superior tour boats under section 340A.404, subdivision 8, shall be \$1,000.

(b) The annual license fee for common carriers licensed under section 340A.407 is:

- (1) \$50 for 3.2 percent malt liquor, and \$20 for a duplicate license; and
- (2) \$200 for intoxicating liquor, and \$20 for a duplicate license.

Subd. 5. Refunds. A pro rata share of an annual license fee for a retail license to sell intoxicating or 3.2 percent malt liquor, either on-sale or off-sale, may be refunded to the licensee or to the licensee's estate if:

- (1) the business ceases to operate because of destruction or damage;
- (2) the licensee dies;
- (3) the business ceases to be lawful for a reason other than a license revocation;

or

- (4) the licensee ceases to carry on the licensed business under the license.

History: 1985 c 305 art 6 s 8; 1987 c 152 art 1 s 1; 1989 c 104 s 1; 1991 c 249 s 11,31; 1992 c 486 s 8; 1992 c 513 art 3 s 59

340A.409 LIABILITY INSURANCE.

Subdivision 1. Insurance required. No retail license may be issued, maintained or renewed unless the applicant demonstrates proof of financial responsibility with regard to liability imposed by section 340A.801. The issuing authority must submit to the commissioner the applicant's proof of financial responsibility. This subdivision does not prohibit a local unit of government from requiring higher insurance or bond coverages, or a larger deposit of cash or securities. The minimum requirement for proof of financial responsibility may be given by filing:

(1) a certificate that there is in effect for the license period an insurance policy or pool providing at least \$50,000 of coverage because of bodily injury to any one person in any one occurrence, \$100,000 because of bodily injury to two or more persons in any one occurrence, \$10,000 because of injury to or destruction of property of others in any one occurrence, \$50,000 for loss of means of support of any one person in any one occurrence, and \$100,000 for loss of means of support of two or more persons in any one occurrence;

(2) a bond of a surety company with minimum coverages as provided in clause (1);
or

(3) a certificate of the state treasurer that the licensee has deposited with the state treasurer \$100,000 in cash or securities which may legally be purchased by savings banks or for trust funds having a market value of \$100,000.

This subdivision does not prohibit an insurer from providing the coverage required by this subdivision in combination with other insurance coverage.

An annual aggregate policy limit for dram shop insurance of not less than \$300,000 per policy year may be included in the policy provisions.

A liability insurance policy required by this section must provide that it may not be canceled for:

(1) any cause, except for nonpayment of premium, by either the insured or the insurer unless the canceling party has first given 30 days' notice in writing to the issuing authority of intent to cancel the policy; and

(2) nonpayment of premium unless the canceling party has first given ten days' notice in writing to the issuing authority of intent to cancel the policy.

Subd. 2. Market assistance. The commissioner of commerce shall advise licensees and municipalities subject to the financial responsibility requirements of subdivision 1 of those persons offering insurance coverage. The commissioner of commerce shall establish a program to assist licensees in obtaining insurance coverage. The program shall include a committee appointed by the commissioner of commerce that is representative of insurance carriers and producers, liquor vendors, and the public. No less than one-half of the committee members shall represent casualty insurers and surplus lines agents or brokers. The commissioner of commerce or the commissioner's designated representative shall serve as an ex officio member of the committee. The committee shall review and act upon all properly executed applications. If the committee finds that it cannot assist in securing insurance coverage, it shall notify the applicant in writing with a full explanation and recommendation for enhancing its ability to secure insurance. The commissioner of commerce shall, if necessary, establish an assigned risk plan pursuant to subdivision 3.

Subd. 3. Assigned risk plan. (a) The purpose of the assigned risk plan is to provide coverage required by subdivision 1 to persons rejected under this subdivision.

(b) An insurer who offers liquor liability insurance that refuses to write the coverage required by subdivision 1 shall furnish the applicant with a written notice of refusal. The rejected applicant shall file a copy of the notice of refusal with the commissioner of public safety at the time of application for coverage to the assigned risk plan and the market assistance program.

A written notice of refusal must be provided to any applicant who has requested only liquor liability insurance if the insurer chooses to only offer liquor liability insurance in combination with other types of insurance.

A written notice of refusal must be provided by an insurer to any applicant who receives an offer of coverage from that insurer that is in excess of the rate charged by the assigned risk plan for similar coverage and risk. A notice is not required if the rate for the coverage offered is less than 20 percent in excess of the assigned risk plan rates, provided that the offered rate is the rate that the insurer has filed with the commissioner of commerce if the insurer is required to file its rates with the commissioner. If the insurer is not required to file its rates with the commissioner, the offered rate must be the rate generally charged by the insurer for similar coverage and risk.

A notice of refusal is not required to be filed if there is not an insurer offering liquor liability insurance in the state.

To be eligible to participate in the assigned risk plan an applicant must apply for coverage through the market assistance program. Application to the market assistance program must be made no later than the time of application to the assigned risk plan. If the market assistance program is unable to secure coverage then coverage may be extended by the assigned risk plan.

(c) The commissioner of commerce may enter into service contracts as necessary or beneficial to accomplish the purposes of the assigned risk plan including servicing of policies or contracts of coverage, data management, and assessment collections. Services related to the administration of policies or contracts of coverages must be performed by one or more qualified insurance companies licensed pursuant to section 60A.06, subdivision 1, clause (13), or a qualified vendor of risk management services. A qualified insurer or vendor of risk management services must possess sufficient financial, professional, administrative, and personnel resources to provide the services required for operation of the plan. The cost of all services contracted for are an obligation of the assigned risk plan.

(d) The commissioner of commerce may assess all insurers licensed under section 60A.06, subdivision 1, clause (13), an amount sufficient to fully fund the obligations of the assigned risk plan if the commissioner determines that the assets of the assigned risk plan are insufficient to meet its obligations. The assessment of each insurer must be in a proportion equal to the proportion which the amount of insurance written as reported on page 14 of the annual statement under line 5, commercial multiperil, and line 17, other liability, during the preceding calendar year by that insurer bears to the total written by all such carriers for such lines.

(e) Policies and contracts of coverage issued under this subdivision must contain the usual and customary provisions of liability insurance policies, and must contain at least the minimum coverage required by subdivision 1 or the local governing unit.

(f) Assigned risk policies and contracts of coverage are subject to premium tax pursuant to section 60A.15.

(g) Insureds served by the assigned risk plan must be charged premiums based upon a rating plan approved by the commissioner of commerce. Assigned risk premiums must be on an actuarially sound basis. The rating plan approved by the commissioner shall provide for surcharge factors based upon claims reported and losses paid. The commissioner of commerce shall fix the compensation received by the agent of record.

(h) The rating plan may be amended by rule pursuant to chapter 14 or by the following expedited procedures:

(1) Any person may, by written petition served upon the commissioner, request that a hearing be held to amend the rating plan.

(2) The commissioner shall forward a copy of the petition to the chief administrative law judge within three business days of its receipt. The chief administrative law judge shall, within three business days of receipt of the copy of the petition or a request for a hearing by the commissioner, set a hearing date, assign an administrative law judge to hear the matter, and notify the commissioner of the hearing date and the administrative law judge assigned to hear the matter. The hearing date must be set no less than 60 days nor more than 90 days from the date of receipt of the petition by the commissioner.

(3) The commissioner of commerce shall publish a notice of the hearing in the State Register at least 30 days before the hearing date. The notice should be similar to that used for rulemaking under the administrative procedure act. Approval by the administrative law judge of the notice prior to publication is not required.

(4) The hearing and all matters taking place after the hearing are a contested case under chapter 14. Within 45 days from the commencement of the hearing and within 15 days of the completion of the hearing the administrative law judge shall submit a report to the commissioner of commerce. The parties, or the administrative law judge, if the parties cannot agree, shall adjust all time requirements under the contested case procedure to conform with the 45-day requirement.

(5) The commissioner shall render a decision within ten business days of the receipt of the administrative law judge's report.

(6) If all parties to the proceeding agree, any of the previous requirements may be waived or modified.

(7) A petition for a hearing to amend the rating plan received by the commissioner within 180 days of the date of the commissioner's decision in a prior proceeding to amend the rating plan is invalid and requires no action.

(i) A liquor vendor shall be denied or terminated from coverage through the assigned risk plan if the liquor vendor disregards safety standards, laws, rules, or ordinances pertaining to the offer, sale, or other distribution of liquor.

The commissioner may by rule establish other conditions for denial or termination from coverage through the assigned risk plan.

(j) The commissioner of commerce shall adopt rules needed to implement this subdivision. The rules may include:

(1) appeal procedures from actions of the assigned risk plan;

(2) formation of an advisory committee composed of insurers, vendors of risk management services and licensees, to advise the commissioner of commerce regarding operation of the plan; and

(3) applicable rating plans and rating standards.

Subd. 3a. Notification by insurer of status of claim. Upon the request of the insured, an insurer who is providing coverage required by subdivision 1 shall inform the insured of the status of any claims made under the policy. The information must include:

(1) the employees of the insured that may be involved and the nature of their involvement;

(2) any amount the insurer is holding in reserve for payment of a claim or has paid in the disposition of the claim; and

(3) any amount paid in the defense of the claim.

This subdivision does not require disclosure of otherwise nondiscoverable information to an adverse party in litigation.

Subd. 4. Insurance not required. Subdivision 1 does not apply to licensees who by affidavit establish that:

(1) they are on-sale 3.2 percent malt liquor licensees with sales of less than \$10,000 of 3.2 percent malt liquor for the preceding year;

(2) they are off-sale 3.2 percent malt liquor licensees with sales of less than \$20,000 of 3.2 percent malt liquor for the preceding year;

(3) they are holders of on-sale wine licenses with sales of less than \$10,000 for wine for the preceding year; or

(4) they are holders of temporary wine licenses issued under law.

History: 1985 c 200 s 2; 1985 c 305 art 6 s 9; 1985 c 309 s 7-9; 1Sp1985 c 16 art 2 s 3 subd 1; 1Sp1986 c 3 art 1 s 38; 1987 c 107 s 1; 1987 c 152 art 1 s 1; 1988 c 534 s 1; 1991 c 249 s 31

340A.410 LICENSE RESTRICTIONS; GENERAL.

Subdivision 1. Counties; town consent. A county may not issue a retail license to sell any alcoholic beverage within an organized town unless the governing body of the town has consented to the issuance of the license.

Subd. 2. Counties; recommendation and review of applicants. (1) No county may issue or renew a retail license to sell any alcoholic beverage until the county board has received a written recommendation from the sheriff and county attorney stating that to the best of their knowledge that the applicant is eligible to be licensed under section 340A.402. A copy of the statements must be given to the town board if a town's consent is required issuance of the license under subdivision 3.

(2) The county board shall consider the recommendations of the sheriff and county attorney, the character and reputation of the applicant, and the nature and location of the business prior to issuance of any license.

Subd. 3. License extension; death of licensee. In the case of the death of a retail

licensee to sell alcoholic beverages, the personal representative is authorized to continue operation of the business for not more than 90 days after the death of the licensee.

Subd. 4. License posting. A retail license to sell alcoholic beverages must be posted in a conspicuous place in the premises for which it is used.

Subd. 4a. Notice posting. (a) A premises licensed for the retail sale of alcoholic beverages and a municipal liquor store must post and maintain in a conspicuous place within the licensed premises:

(1) One or more signs which read:

“THE MAXIMUM CRIMINAL PENALTY FOR DRIVING WHEN UNDER THE INFLUENCE OF ALCOHOL IS \$700 OR 90 DAYS IN JAIL OR BOTH. MINNESOTA STATUTES, SECTION 169.121. THE MAXIMUM CRIMINAL PENALTY FOR CRIMINAL VEHICULAR HOMICIDE IS \$20,000 OR TEN YEARS IMPRISONMENT OR BOTH. MINNESOTA STATUTES, SECTION 609.21.”

(2) One or more signs which read:

“THIS ESTABLISHMENT IS PROHIBITED BY LAW FROM SERVING ALCOHOLIC BEVERAGES TO A PERSON WHO IS UNDER 21 YEARS OF AGE OR OBVIOUSLY INTOXICATED. MINNESOTA STATUTES, SECTIONS 340A.502 AND 340A.503.”

(b) A conspicuous place is a location clearly visible to the customers.

(c) The signs must be at least 12 inches wide by eight inches high, with letters at least one inch high in clear contrast with the background.

Subd. 5. Gambling prohibited. (a) No retail establishment licensed to sell alcoholic beverages may keep, possess, or operate, or permit the keeping, possession, or operation on the licensed premises of dice or any gambling device as defined in section 349.30, or permit gambling therein except as provided in this subdivision.

(b) Gambling equipment may be kept or operated and raffles conducted on licensed premises and adjoining rooms when the use of the gambling equipment is authorized by (1) chapter 349, (2) a tribal ordinance in conformity with the Indian Gaming Regulatory Act, Public Law Number 100-497, or (3) a tribal-state compact authorized under section 3.9221.

(c) Lottery tickets may be purchased and sold within the licensed premises as authorized by the director of the lottery under chapter 349A.

Subd. 6. Racial discrimination; clubs. No retail license to sell alcoholic beverages may be issued or renewed by a municipality or county to a club which discriminates against members or applicants for membership or guests of members on the basis of race.

Subd. 7. License limited to space specified. A retail license to sell any alcoholic beverage is only effective for the compact and contiguous space specified in the approved license application.

Subd. 8. Copy of summons. Every application for the issuance or renewal of intoxicating or nonintoxicating liquor licenses must include a copy of each summons received by the applicant under section 340A.802 during the preceding year.

Subd. 9. Coin-operated devices. Coin-operated amusement devices may not be made available in establishments licensed solely for the off-sale of intoxicating liquor or municipal stores which sell only at off-sale. An establishment holding a combination on-sale and off-sale license or a municipal liquor store which sells at on-sale and off-sale which makes coin-operated devices available shall keep such devices to the greatest extent practicable in that area of the establishment where on-sales are made.

History: 1985 c 305 art 6 s 10; 1Sp1986 c 3 art 1 s 39; 1987 c 152 art 1 s 1; 1987 c 381 s 4; 1989 c 334 art 6 s 5; 1991 c 178 s 1; 1991 c 249 s 12

340A.411 LICENSE RESTRICTIONS; 3.2 PERCENT MALT LIQUOR LICENSES.

Subdivision 1. On-sale licenses. On-sale nonintoxicating liquor licenses may only

be issued to drugstores, restaurants, hotels, clubs, bowling centers, and establishments used exclusively for the sale of 3.2 percent malt liquor with the incidental sale of tobacco and soft drinks.

Subd. 2. **License duration.** All retail 3.2 percent malt liquor licenses must be issued for one year, except that for the purpose of coordinating the time of expiration of licenses in general, licenses may be issued for a shorter time, in which case a pro rata license fee must be charged.

History: 1985 c 305 art 6 s 11; 1987 c 5 s 3; 1987 c 152 art 1 s 1; 1991 c 249 s 31

340A.412 LICENSE RESTRICTIONS; INTOXICATING LIQUOR LICENSES.

Subdivision 1. [Repealed, 1989 c 49 s 8]

Subd. 2. **Investigation of on-sale licenses.** (a) The city or county having jurisdiction over on-sale licenses to sell intoxicating liquor shall on initial application for an on-sale license or on application for a transfer of an existing license conduct a preliminary background and financial investigation of the applicant. The application must be in the form prescribed by the commissioner and with any additional information as the governing body of the city or county having jurisdiction over the license requires. If the governing body of the city or county having jurisdiction determines or if the commissioner on the commissioner's own initiative determines that a comprehensive background and investigation of the applicant is necessary, the governing body may conduct the investigation itself or contract with the commissioner for the investigation. In addition, an investigation may be required prior to renewal of an existing on-sale license when the governing body of the city or county deems it in the public interest. An investigation fee not to exceed \$500 shall be charged an applicant by the city or county if the investigation is conducted within the state, or the actual cost not to exceed \$10,000 if the investigation is required outside the state.

(b) No license may be issued, transferred, or renewed if the results of the investigation show, to the satisfaction of the governing body, that issuance, transfer, or renewal would not be in the public interest.

Subd. 3. **Limitations on issuance of licenses to one person or place.** A municipality may not issue more than one off-sale intoxicating liquor license to any one person or for any one place.

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;

(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 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 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;

(8) within 1,500 feet of a state university, except only 1,200 feet from Winona and Southwest State University, provided that 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 except at Mankato State University the distance is measured from the front door of the student union of the Highland campus; 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.

Subd. 5. Licenses in connection with premises of another. An intoxicating liquor license may not be issued to a person in connection with the premises of another to whom a license could not be issued under the provisions of this chapter. This subdivision does not prevent the granting of a license to a proper lessee because the person has leased the premises of a minor, a noncitizen who is not a resident alien, or a person who has been convicted of a crime other than a violation of this chapter.

Subd. 6. Off-sale licenses where 3.2 percent malt liquor is sold. An off-sale intoxicating liquor license may not be issued to a place where 3.2 percent malt liquor is sold for consumption on the premises. This subdivision does not apply to those places where both an on-sale and off-sale license or a combination license have been issued under section 340A.406.

Subd. 7. Drugstores. No intoxicating liquor license may be issued to a person operating a drugstore unless the person has operated it for at least two years or has purchased a drugstore that has been in continuous operation for two or more years.

Subd. 8. Expiration date. All intoxicating liquor licenses issued by a county or a city, other than cities of the first class, must expire on the same date.

Subd. 9. License transfer. A license may be transferred with the consent of the issuing authority, provided that a license issued to a location at a racetrack licensed under chapter 240 may not be transferred. Where a license is held by a corporation, a change in ownership of ten percent or more of the stock of the corporation must be reported in writing to the authority who issued the license within ten days of the transfer.

Subd. 10. Employment of minors. No person under 18 years of age may serve or sell intoxicating liquor in a retail intoxicating liquor establishment.

Subd. 11. Reissuance of licenses in certain cities. A city having territory in which the sale of intoxicating liquor has been prohibited by law or charter and in which real property taken for a public purpose by negotiation or eminent domain proceedings was, immediately prior to the taking, actually and lawfully used for the sale of intoxicating liquor, may reissue the license previously issued to the location at any otherwise lawful location in the city. A change of location due to taking after July 1, 1972, must have been accomplished by July 1, 1976, but these licenses may be renewed, reissued, transferred, or relocated after that date.

Subd. 12. Off-site storage prohibition. A holder of a retail intoxicating liquor license or a municipal liquor store may not store any intoxicating liquor at any location other than the licensed premises except with the written permission of the commissioner.

Subd. 13. First class cities; renewal of inactive licenses prohibited. A city of the first class may not renew an on-sale intoxicating liquor license if the holder of the license has not made on-sales authorized by the license at any time during the one-year period immediately prior to the date of renewal.

History: 1985 c 305 art 6 s 12; 1985 c 309 s 10; 1Sp1985 c 16 art 2 s 3 subd 1; 1Sp1986 c 3 art 1 s 40,41; 1987 c 152 art 1 s 1; 1987 c 310 s 11; 1991 c 249 s 13-15,31; 1992 c 486 s 9

340A.413 RESTRICTIONS ON THE NUMBER OF INTOXICATING LIQUOR LICENSES THAT MAY BE ISSUED.

Subdivision 1. **On-sale licenses.** No on-sale intoxicating liquor license may be issued in any city except as provided in this section in excess of the following limits:

- (1) in cities of the first class, one license for every 1,500 population, up to 200 licenses;
- (2) in cities of the second class, not more than 18 licenses plus one for every 2,500 population over 45,000;
- (3) in cities of the third class, not more than 12 licenses;
- (4) in cities of the fourth class, including cities whose acts of incorporation were repealed by Laws 1973, chapter 123, article V, section 5, not more than seven licenses;
- (5) in statutory cities of 5,000 to 10,000 population, not more than six licenses;
- (6) in statutory cities of 2,500 to 5,000 population, not more than five licenses;
- (7) in statutory cities of 500 to 2,500 population, not more than four licenses; and
- (8) in statutory cities under 500 population, not more than three licenses.

Subd. 2. **Additional on-sale licenses permitted for cities in St. Louis county.** For cities in St. Louis county no on-sale liquor license may be issued in excess of the following limits, without the approval of the commissioner:

- (1) in cities of the third class, not more than 15 licenses;
- (2) in cities of the fourth class, not more than nine licenses; and
- (3) in statutory cities of 2,500 to 5,000 population, not more than six licenses.

Subd. 3. **Referendum for additional on-sale licenses.** (a) The governing body of a city may issue on-sale intoxicating liquor licenses over the number permitted under subdivision 1 when authorized by the voters of the city at a general or special election.

(b) The governing body may direct that either of the following questions be placed on the ballot:

(1) "Shall the city council be allowed to issue 'on-sale' licenses for the sale of intoxicating liquor at retail in excess of the number permitted by law?"

Yes

No"

(2) "Shall the city council be allowed to issue (a number to be determined by the governing body) 'on-sale' licenses for the sale of intoxicating liquor at retail in excess of the number now permitted by law?"

Yes

No"

(c) If a majority of voters voting on the question in clause (1) vote yes, the governing body may issue an unlimited number of on-sale licenses. If a majority of voters voting on the question in clause (2) vote yes, the governing body may issue additional on-sale licenses in the number stated in the question.

Subd. 4. **Exclusions from license limits.** On-sale intoxicating liquor licenses may be issued to the following entities by a city, in addition to the number authorized by this section:

- (1) clubs, or congressionally chartered veterans organizations;
- (2) restaurants located at a racetrack licensed under chapter 240;
- (3) establishments that are issued licenses to sell wine under section 340A.404, subdivision 5;
- (4) Lake Superior tour boats that are issued licenses under section 340A.404, subdivision 8; and
- (5) theaters that are issued licenses under section 340A.404, subdivision 2.

Subd. 5. **Off-sale licenses.** No off-sale intoxicating liquor license may be issued in any city, except as provided in this section, in excess of the following limits:

(1) in cities of the first class, not more than one off-sale license for each 5,000 population; and

(2) in all other cities the limit shall be determined by the governing body of the city.

Subd. 6. Area that has been annexed or consolidated. A license validly issued within the number prescribed in this section is not rendered invalid or illegal by reason of the consolidation or annexation of territory to a city and may continue to remain in effect and be renewed, except that the limitations as to ownership under section 340A.412, subdivision 2.

History: 1985 c 305 art 6 s 13; 1987 c 152 art 1 s 1; 1990 c 554 s 13; 1991 c 249 s 16

340A.414 CONSUMPTION AND DISPLAY PERMITS.

Subdivision 1. Permit required. No business establishment or club which does not hold an on-sale intoxicating liquor license may directly or indirectly allow the consumption and display of intoxicating liquor or knowingly serve any liquid for the purpose of mixing with intoxicating liquor without first having obtained a permit from the commissioner.

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 157.01; and

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

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

Subd. 3. Only authorized to permit the consumption and display. A permit issued under this section authorizes the establishment to permit the consumption and display of intoxicating liquor on the premises. The permit does not authorize the sale of intoxicating liquor.

Subd. 4. Permit expiration. All permits issued under this section expire on March 31 of each year.

Subd. 5. Local consent required. A permit issued under this section is not effective until approved by the governing body of the city or county where the establishment is located.

Subd. 6. Permit fees. The annual fee for issuance of a permit under this section is \$150. The governing body of a city or county where the establishment is located may impose an additional fee of not more than \$300.

Subd. 7. Inspection. An establishment holding a permit under this section is open for inspection by the commissioner and the commissioner's representative and by peace officers, who may enter and inspect during reasonable hours. Intoxicating liquor sold, served, or displayed in violation of law may be seized and may be disposed of under section 297C.12.

Subd. 8. Lockers. A club issued a permit under this section may allow members to bring and keep a personal supply of intoxicating liquor in lockers on the club's premises. All bottles kept on the premises must have attached to it a label signed by the member. No person under 21 years of age may keep a supply of intoxicating liquor on club premises.

Subd. 9. **One-day city permits.** A city may issue a one-day permit for the consumption and display of intoxicating liquor under this section to a nonprofit organization in conjunction with a social activity in the city sponsored by the organization. The permit must be approved by the commissioner and is valid only for the day indicated on the permit. The fee for the permit may not exceed \$25. A city may not issue more than ten permits under this section in any one year.

History: 1985 c 305 art 6 s 14; 1Sp1985 c 16 art 2 s 3 subd 1; 1987 c 152 art 1 s 1; 1989 c 209 art 1 s 34; 1991 c 249 s 17,18,31

340A.415 LICENSE REVOCATION OR SUSPENSION.

The authority issuing or approving any retail license or permit under this chapter shall either suspend for up to 60 days or revoke the license or permit or impose a civil fine not to exceed \$2,000 for each violation on a finding that the license or permit holder has failed to comply with an applicable statute, rule, or ordinance relating to alcoholic beverages. No suspension or revocation takes effect until the license or permit holder has been afforded an opportunity for a hearing under sections 14.57 to 14.69 of the administrative procedure act. This section does not require a political subdivision to conduct the hearing before an employee of the office of administrative hearing. The issuing authority or the commissioner may impose the penalties provided in this section on a retail licensee who knowingly (1) sells alcoholic beverages to another retail licensee for the purpose of resale, (2) purchases alcoholic beverages from another retail licensee for the purpose of resale, (3) conducts or permits the conduct of gambling on the licensed premises in violation of the law, or (4) fails to remove or dispose of alcoholic beverages when ordered by the commissioner to do so under section 340A.508, subdivision 3.

History: 1985 c 248 s 70; 1985 c 305 art 6 s 15; 1985 c 309 s 11; 1Sp1985 c 16 art 2 s 3 subd 1; 1Sp1986 c 3 art 1 s 42; 1987 c 152 art 1 s 1; 1987 c 310 s 12; 1988 c 534 s 2; 1991 c 249 s 19

340A.416 LOCAL OPTION ELECTION.

Subdivision 1. **Petition.** Upon receipt of a petition signed by 30 percent of the persons voting at the last city election or 200 registered voters residing in the city, whichever is less, a statutory city or home rule charter city of the fourth class shall place before the voters of the city the question of whether the city will issue intoxicating liquor licenses.

Subd. 2. **Ballot question.** The question of the referendum under this section must be on a separate ballot and must allow the voters to vote either "for license" or "against license."

Subd. 3. **Effect of election results.** If a majority of persons voting on the referendum question the vote "against license" the city may not issue intoxicating liquor licenses until the results of the referendum have been reversed at a subsequent election where the question has been submitted as provided in this section.

Subd. 4. **Certification to secretary of state.** The clerk or recorder must certify results of a referendum held under this section to the secretary of state within ten days of the election.

Subd. 5. **Challenge of election.** Where the results of a referendum under this section are challenged by any voter, the county attorney of the county where the election was held must appear in defense of the validity of the election.

History: 1985 c 305 art 6 s 16; 1987 c 152 art 1 s 1

RETAIL SALES REGULATIONS

340A.501 RESPONSIBILITY OF LICENSEE.

Every licensee is responsible for the conduct in the licensed establishment and any sale of alcoholic beverage by any employee authorized to sell alcoholic beverages in the

establishment is the act of the licensee for the purposes of all provisions of this chapter except sections 340A.701, 340A.702, and 340A.703.

History: 1985 c 305 art 7 s 1; 1987 c 152 art 1 s 1; art 2 s 2

340A.502 SALES TO OBVIOUSLY INTOXICATED PERSONS.

No person may sell, give, furnish, or in any way procure for another alcoholic beverages for the use of an obviously intoxicated person.

History: 1985 c 305 art 7 s 2; 1987 c 152 art 1 s 1

340A.503 PERSONS UNDER 21; ILLEGAL ACTS.

Subdivision 1. Consumption. It is unlawful for any:

(1) retail intoxicating liquor or nonintoxicating liquor licensee, municipal liquor store, or bottle club permit holder under section 340A.414, to permit any person under the age of 21 years to consume alcoholic beverages on the licensed premises or within the municipal liquor store; or

(2) person under the age of 21 years to consume any alcoholic beverages. If proven by a preponderance of the evidence, it is an affirmative defense to a violation of this clause that the defendant consumed the alcoholic beverage in the household of the defendant's parent or guardian and with the consent of the parent or guardian.

Subd. 2. Purchasing. It is unlawful for any person:

(1) to sell, barter, furnish, or give alcoholic beverages to a person under 21 years of age;

(2) under the age of 21 years to purchase or attempt to purchase any alcoholic beverage; or

(3) to induce a person under the age of 21 years to purchase or procure any alcoholic beverage, or to lend or knowingly permit the use of the person's driver's license, permit, Minnesota identification card, or other form of identification by a person under the age of 21 years for the purpose of purchasing or attempting to purchase an alcoholic beverage.

If proven by a preponderance of the evidence, it shall be an affirmative defense to a violation of clause (1) that the defendant is the parent or guardian of the person under 21 years of age and that the defendant gave or furnished the alcoholic beverage to that person solely for consumption in the defendant's household.

Subd. 3. Possession. It is unlawful for a person under the age of 21 years to possess any alcoholic beverage with the intent to consume it at a place other than the household of the person's parent or guardian. Possession at a place other than the household of the parent or guardian creates a rebuttable presumption of intent to consume it at a place other than the household of the parent or guardian. This presumption may be rebutted by a preponderance of the evidence.

Subd. 4. Entering licensed premises. (a) It is unlawful for a person under the age of 21 years to enter an establishment licensed for the sale of alcoholic beverages or any municipal liquor store for the purpose of purchasing or having served or delivered any alcoholic beverage.

(b) Notwithstanding section 340A.509, no ordinance enacted by a statutory or home rule charter city may prohibit a person 18, 19, or 20 years old from entering an establishment licensed under this chapter to:

(1) perform work for the establishment, including the serving of alcoholic beverages, unless otherwise prohibited by section 340A.412, subdivision 10;

(2) consume meals; and

(3) attend social functions that are held in a portion of the establishment where liquor is not sold.

Subd. 5. Misrepresentation of age. It is unlawful for a person under the age of 21 years to claim to be 21 years old or older for the purpose of purchasing alcoholic beverages.

Subd. 6. Proof of age; defense. (a) Proof of age for purchasing or consuming alcoholic beverages may be established only by one of the following:

- (1) a valid driver's license issued by Minnesota, another state, or a province of Canada, and including the photograph and date of birth of the licensed person;
- (2) a valid Minnesota identification card;
- (3) a valid Canadian identification card with the photograph and date of birth of the person, issued by a Canadian province; or
- (4) in the case of a foreign national, from a nation other than Canada, by a valid passport.

(b) In a prosecution under subdivision 2, clause (1), it is a defense for the defendant to prove by a preponderance of the evidence that the defendant reasonably and in good faith relied upon representations of proof of age authorized in paragraph (a) in selling, bartering, furnishing, or giving the alcoholic beverage.

Subd. 7. [Repealed, 1989 c 351 s 19]

History: 1985 c 305 art 7 s 3; 1986 c 330 s 6; 1986 c 444; 1987 c 152 art 1 s 1; 1989 c 301 s 13,14; 1990 c 602 art 5 s 2-4; 1991 c 68 s 1; 1991 c 249 s 20

340A.504 HOURS AND DAYS OF SALE.

Subdivision 1. 3.2 percent malt liquor. No sale of 3.2 percent malt liquor may be made between 1:00 a.m. and 8:00 a.m. on the days of Monday through Saturday, nor between 1:00 a.m. and 12:00 noon on Sunday, provided that an establishment located on land owned by the metropolitan sports commission, or the sports arena for which one or more licenses have been issued under section 340A.404, subdivision 2, paragraph (c), may sell 3.2 percent malt liquor between 10:00 a.m. and 12:00 noon on a Sunday on which a sports or other event is scheduled to begin at that location on or before 1:00 p.m. of that day.

Subd. 2. Intoxicating liquor; on-sale. No sale of intoxicating liquor for consumption on the licensed premises may be made:

- (1) between 1:00 a.m. and 8:00 a.m. on the days of Monday through Saturday;
- (2) after 1:00 a.m. on Sundays, except as provided by subdivision 3;
- (3) between 8:00 p.m. on December 24 and 8:00 a.m. on December 25, except that when December 25 occurs on a Sunday on-sales on that day are governed by subdivision 3.

Subd. 3. Intoxicating liquor; Sunday sales; on-sale. (a) A restaurant, club, bowling center, or hotel with a seating capacity for at least 30 persons and which holds an on-sale intoxicating liquor license may sell intoxicating liquor for consumption on the premises in conjunction with the sale of food between the hours of 12:00 noon on Sundays and 1:00 a.m. on Mondays.

(b) The governing body of a municipality may after one public hearing by ordinance permit a restaurant, hotel, bowling center, or club to sell intoxicating liquor for consumption on the premises in conjunction with the sale of food between the hours of 10:00 a.m. on Sundays and 1:00 a.m. on Mondays, provided that the licensee is in conformance with the Minnesota clean air act.

(c) An establishment serving intoxicating liquor on Sundays must obtain a Sunday license. The license must be issued by the governing body of the municipality for a period of one year, and the fee for the license may not exceed \$200.

(d) A city may issue a Sunday intoxicating liquor license only if authorized to do so by the voters of the city voting on the question at a general or special election. A county may issue a Sunday intoxicating liquor license in a town only if authorized to do so by the voters of the town as provided in paragraph (e). A county may issue a Sunday intoxicating liquor license in unorganized territory only if authorized to do so by the voters of the election precinct that contains the licensed premises, voting on the question at a general or special election.

(e) An election conducted in a town on the question of the issuance by the county

of Sunday sales licenses to establishments located in the town must be held on the day of the annual election of town officers.

(f) Voter approval is not required for licenses issued by the metropolitan airports commission or common carrier licenses issued by the commissioner. Common carriers serving intoxicating liquor on Sunday must obtain a Sunday license from the commissioner at an annual fee of \$50, plus \$20 for each duplicate.

Subd. 4. Intoxicating liquor; off-sale. No sale of intoxicating liquor may be made by an off-sale licensee:

(1) on Sundays;

(2) before 8:00 a.m. on Monday through Saturday;

(3) after 10:00 p.m. on Monday through Saturday at an establishment located in a city other than a city of the first class or within a city located within 15 miles of a city of the first class in the same county;

(4) after 8:00 p.m. on Monday through Thursday and after 10:00 p.m. on Friday and Saturday at an establishment located in a city of the first class or within a city located within 15 miles of a city of the first class in the same county, provided that an establishment may sell intoxicating liquor until 10:00 p.m. on December 31 and July 3, and on the day preceding Thanksgiving day, unless otherwise prohibited under clause (1);

(5) on Thanksgiving Day;

(6) on Christmas Day, December 25; or

(7) after 8:00 p.m. on Christmas Eve, December 24.

Subd. 5. Bottle clubs. No establishment licensed under section 340A.414, may permit a person to consume or display intoxicating liquor, and no person may consume or display intoxicating liquor between 1:00 a.m. and 12:00 noon on Sundays, and between 1:00 a.m. and 8:00 a.m. on Monday through Saturday.

Subd. 6. Municipalities may limit hours. A municipality may further limit the hours of sale of alcoholic beverages, provided that further restricted hours must apply equally to sales 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.

History: 1985 c 139 s 1; 1985 c 305 art 7 s 4; ISp1985 c 16 art 2 s 3 subd 1; 1987 c 5 s 4; 1987 c 152 art 1 s 1; 1988 c 420 s 1; 1989 c 49 s 3-5; 1990 c 554 s 14; 1991 c 249 s 21,22,31; 1992 c 513 art 3 s 60

340A.505 LICENSEE MAY NOT SELL FOR RESALE.

A retail licensee may not sell alcoholic beverages to any person for the purpose of resale or to any person whom the licensee has reason to believe intends to resell the alcoholic beverage without written approval of the commissioner.

History: 1985 c 305 art 7 s 5; 1987 c 152 art 1 s 1

340A.506 SALES OF ETHYL ALCOHOL AND NEUTRAL SPIRITS PROHIBITED.

Subdivision 1. Ethyl alcohol; neutral spirits. No person may sell at retail for beverage purposes ethyl alcohol or neutral spirits, or substitutes thereof, possessing the taste, aroma, and characteristics generally attributed to ethyl alcohol or neutral spirits. Nothing in this section prohibits the manufacture or sale of other products obtained by use of ethyl alcohol or neutral spirits as defined in United States Treasury Department, Bureau of Internal Revenue, Regulations 125, Article II, Standards of Identity for Distilled Spirits.

Subd. 2. Maximum alcohol content. No person may sell for beverage purposes any spirits, distilled from grain or corn, with an alcohol content of 80 percent or more, which equals 160 proof or more, unless such spirits have been aged in wood casks for not less than two years.

History: 1985 c 305 art 7 s 6; 1987 c 152 art 1 s 1; 1991 c 249 s 23

340A.507 REGULATION OF ADVERTISING.

Subdivision 1. **Rules.** The commissioner may by rule regulate the advertising of alcoholic beverages. Rules must be adopted under chapter 14.

Subd. 2. **Wine catalogs.** No rule may be construed as prohibiting the advertising of wines by off-sale licensees or municipal liquor stores by means of catalogs distributed by direct mail listing not less than 25 varieties of wine and the price of each.

Subd. 3. **Border cities.** No rule may prohibit the advertising of intoxicating liquor prices by an off-sale licensee in a newspaper of general circulation published in an adjoining state if it is the primary newspaper of general circulation in the licensee's area.

Subd. 4. **Campus contests restricted.** No manufacturer, wholesaler, or retailer of alcoholic beverages, whether holding a license in Minnesota or not, may conduct, sponsor, or contribute financially to events or activities that are held on the campuses or other property of a post-secondary institution of learning, and involve the consumption or sale of alcoholic beverages. This subdivision does not affect on-campus, licensed retailers of alcoholic beverages.

History: 1985 c 305 art 7 s 7; 1986 c 330 s 7; 1987 c 152 art 1 s 1

340A.508 TAMPERING OR REFILLING BOTTLES.

Subdivision 1. **Refilling bottles.** It is unlawful for a person to sell, offer for sale, or keep for sale alcoholic beverages in a package or bottle which has been refilled or partly refilled.

Subd. 2. **Tampering or diluting contents.** It is unlawful for a person holding a retail intoxicating liquor license or a nonintoxicating liquor license, directly or indirectly through an agent, employee, or other person, to dilute or in any manner tamper with the contents of an original package or bottle so as to change its composition or alcoholic content while the contents are in the original package or bottle. Possession on the premises by a licensee of alcoholic beverages in the original package or bottle, differing in composition or alcoholic content from when it was received from the manufacturer or wholesaler from whom it was purchased, is prima facie evidence that the contents of the original package or bottle has been diluted, changed, or tampered with in violation of this section.

Subd. 3. **Purity of contents.** The commissioner may examine the contents of any container of alcoholic beverages on the premises of any licensee under this chapter or any municipal liquor store, for the purpose of determining the purity of the alcoholic beverages. The commissioner may remove any container, or remove all or part of the contents thereof, for the purpose of conducting tests of purity. The commissioner may order the removal from inventory of any container the contents of which fail to meet standards of purity established by rules adopted under this subdivision, and may order the disposal of the contents. The commissioner may adopt rules that (1) provide standards of purity for alcoholic beverages and procedures for testing for purity, and (2) govern the removal from inventory and disposal of alcoholic beverages that do not meet the commissioner's standards of purity.

History: 1985 c 305 art 7 s 8; 1987 c 152 art 1 s 1; 1991 c 249 s 24

340A.509 LOCAL RESTRICTIONS.

A local authority may impose further restrictions and regulations on the sale and possession of alcoholic beverages within its limits.

History: 1985 c 305 art 7 s 9; 1987 c 152 art 1 s 1

340A.510 SAMPLES.

Off-sale licenses and municipal liquor stores may provide samples of malt liquor, wine, liqueurs, and cordials which the licensee or municipal liquor store currently has in stock and is offering for sale to the general public without obtaining an additional

license, provided the wine, liqueur, and cordial samples are dispensed at no charge and consumed on the licensed premises during the permitted hours of off-sale in a quantity less than 100 milliliters of malt liquor per variety per customer, 50 milliliters of wine per variety per customer and 25 milliliters of liqueur or cordial per variety per customer.

History: *1Sp1986 c 3 art 1 s 43; 1987 c 152 art 1 s 1; 1989 c 49 s 6*

MUNICIPAL LIQUOR STORES

340A.601 ESTABLISHMENT OF MUNICIPAL LIQUOR STORES.

Subdivision 1. Authority. A city having a population of not more than 10,000 may establish, own, and operate a municipal liquor store which may sell at retail intoxicating liquor, 3.2 percent malt liquor, tobacco products, ice, soft drinks, beverages for mixing intoxicating liquor, and food for consumption on the premises. A municipal liquor store may also offer recorded or live entertainment and make available coin-operated amusement devices.

Subd. 2. Population change. A city which has established a municipal liquor store may continue to operate it notwithstanding a subsequent change in population.

Subd. 3. Scope and application. A city which established a liquor store prior to July 1, 1967, may continue to own and operate it.

Subd. 4. Newly formed municipalities; municipal liquor stores; liquor licenses. A city may not establish or operate a municipal liquor store or issue an on-sale or off-sale liquor license until two years after its incorporation. This restriction does not apply to a newly incorporated statutory city which had formerly been a town or is made up of a major geographic portion of what had formerly been a town, which town had the powers of a statutory city under section 368.01.

Subd. 5. Issuance of licenses to private persons. A city owning and operating a municipal liquor store may issue on-sale liquor licenses to hotels, clubs, and restaurants. A city issuing on-sale licenses under this subdivision may continue to operate the municipal liquor store or may resume operation of a municipal liquor store previously discontinued.

The number of on-sale licenses issued under this section by a city is governed by section 340A.413.

A city may not issue licenses under this section, other than a license issued to a club under section 340A.404, subdivision 1, clause (4), until authorized by the voters of the city voting on the question at a special election called for that purpose.

Subd. 6. Municipalities; certain on-sale licenses. A city which did not permit the sale of intoxicating liquor within its boundaries as of June 30, 1969, or was incorporated after that date may issue on-sale licenses for the sale of intoxicating liquor in accordance with subdivision 5.

Subd. 7. Notice of intent. A city which has issued retail intoxicating liquor licenses may not establish a municipal liquor store until one year after publishing a notice of its intention in the city's legal newspaper. The city must provide in the notice if the municipality will be engaging in the sale of intoxicating liquor to the exclusion of all private interests.

History: *1985 c 305 art 8 s 1; 1987 c 152 art 1 s 1; 1990 c 554 s 15; 1991 c 249 s 25,31*

340A.602 CONTINUATION.

In any city in which the report of the operations of a municipal liquor store has shown in any two of three consecutive years both (1) a net loss and (2) that no contribution to other municipal funds has been made from the net income of the operation, the city council shall, not more than 45 days prior to the end of the fiscal year following the three-year period, hold a public hearing on the question of whether the city shall continue to operate a municipal liquor store. Two weeks notice, written in clear and

easily understandable language, of the hearing must be printed in the city's official newspaper. Following the hearing the city council may on its own motion or shall upon petition of five percent or more of the registered voters of the city, submit to the voters at a general or special municipal election the question of whether the city shall continue or discontinue municipal liquor store operations by a date which the city council shall designate. The date designated by the city council must not be more than 30 months following the date of the election.

History: 1985 c 305 art 8 s 2; 1987 c 152 art 1 s 1; 1992 c 486 s 10

340A.603 FINANCIAL RESPONSIBILITY.

Every municipal liquor store must demonstrate proof of financial responsibility required of licensees under section 340A.409. Proof of financial responsibility must be filed by January 15 of each year. The commissioner may suspend the operation of a municipal liquor store failing to demonstrate proof of financial responsibility until the commissioner is satisfied that the municipal liquor store is in compliance with section 340A.409. The commissioner must notify in writing the municipality operating the store of the effective date of the suspension. A suspension under this subdivision is a contested case under the administrative procedure act.

History: 1985 c 305 art 8 s 3; 1987 c 152 art 1 s 1

340A.604 SUSPENSION OF OPERATION.

A court shall notify the commissioner in writing within ten days whenever a municipal officer or employee has been convicted of any of the following offenses committed in a municipal liquor store:

- (1) selling alcoholic beverages to persons or at times prohibited by law;
- (2) selling alcoholic beverages for resale;
- (3) selling alcoholic beverages on which state taxes have not been paid; or
- (4) violating the provisions of section 340A.410, subdivision 5, relating to gambling and gambling devices.

On receiving the notice of conviction the commissioner may suspend for up to 30 days the operation of the municipal liquor store where the offense occurred. The commissioner must notify in writing the municipality operating the store of the effective dates of the suspension. An appeal of the suspension is a contested case under sections 14.57 to 14.69 of the administrative procedure act.

History: 1985 c 305 art 8 s 4; 1987 c 152 art 1 s 1; 1991 c 249 s 26

VIOLATIONS AND PENALTIES

340A.701 FELONIES.

Subdivision 1. **Unlawful acts.** It is a felony:

- (1) to manufacture alcoholic beverages in violation of this chapter;
- (2) to transport or import alcoholic beverages into the state in violation of this chapter for purposes of resale; or
- (3) to sell or give away for beverage purposes poisonous alcohol, methyl alcohol, denatured alcohol, denaturing material, or any other alcoholic substance capable of causing serious physical or mental injuries to a person consuming it; or
- (4) for a person other than a licensed retailer of alcoholic beverages, a bottle club permit holder, a municipal liquor store, or an employee or agent of any of these who is acting within the scope of employment, to violate the provisions of section 340A.503, subdivision 2, clause (1), by selling alcoholic beverages if the underage purchaser of the alcoholic beverage becomes intoxicated and causes or suffers death or great bodily harm as a result of the intoxication.

Subd. 2. **Presumptive sentence.** In determining an appropriate disposition for a

violation of subdivision 1, clause (4), the court shall presume that a stay of execution with a 90-day period of incarceration as a condition of probation shall be imposed unless the defendant's criminal history score determined according to the sentencing guidelines indicates a presumptive executed sentence, in which case the presumptive executed sentence shall be imposed unless the court departs from the sentencing guidelines under section 244.10. A stay of imposition of sentence may be granted only if accompanied by a statement on the record of the reasons for it.

History: 1985 c 305 art 9 s 1; 1987 c 152 art 1 s 1; 1989 c 290 art 7 s 1

340A.702 GROSS MISDEMEANORS.

It is a gross misdemeanor:

- (1) to sell an alcoholic beverage without a license authorizing the sale;
- (2) for a licensee to refuse or neglect to obey a lawful direction or order of the commissioner or the commissioner's agent, withhold information or a document the commissioner calls for examination, obstruct or mislead the commissioner in the execution of the commissioner's duties or swear falsely under oath;
- (3) to violate the provisions of sections 340A.301 to 340A.312;
- (4) to violate the provisions of section 340A.508;
- (5) for any person, partnership, or corporation to knowingly have or possess direct or indirect interest in more than one off-sale intoxicating liquor license in a municipality in violation of section 340A.412, subdivision 3;
- (6) to sell or otherwise dispose of intoxicating liquor within 1,000 feet of a state hospital, training school, reformatory, prison, or other institution under the supervision and control, in whole or in part, of the commissioner of human services or the commissioner of corrections;
- (7) to violate the provisions of section 340A.502;
- (8) except as otherwise provided in section 340A.701, to violate the provisions of section 340A.503, subdivision 2, clause (1) or (3);
- (9) to withhold any information, book, paper, or other thing called for by the commissioner for the purpose of an examination;
- (10) to obstruct or mislead the commissioner in the execution of the commissioner's duties; or
- (11) to swear falsely concerning any matter stated under oath.

History: 1985 c 305 art 9 s 2; 1Sp1986 c 3 art 1 s 45; 1987 c 152 art 1 s 1; 1989 c 209 art 2 s 1; 1989 c 290 art 7 s 2

340A.703 MISDEMEANORS.

Where no other penalty is specified a violation of any provision of this chapter is a misdemeanor.

History: 1985 c 305 art 9 s 3; 1987 c 152 art 1 s 1

340A.704 SEARCH WARRANTS.

Search warrants may be issued in connection with violation of this chapter or other laws relating to sale, taxation, transportation, manufacture, or possession of alcoholic beverages in accordance with chapter 626.

History: 1985 c 305 art 9 s 4; 1987 c 152 art 1 s 1

340A.705 PRIMA FACIE EVIDENCE.

The finding of an unauthorized still is prima facie evidence of possession for the purpose of unlawful manufacture of alcoholic beverages.

History: 1985 c 305 art 9 s 5; 1987 c 152 art 1 s 1

CIVIL LIABILITY

340A.801 CIVIL ACTIONS.

Subdivision 1. **Right of action.** A spouse, child, parent, guardian, employer, or other person injured in person, property, or means of support, or who incurs other pecuniary loss by an intoxicated person or by the intoxication of another person, has a right of action in the person's own name for all damages sustained against a person who caused the intoxication of that person by illegally selling alcoholic beverages. All damages recovered by a minor under this section must be paid either to the minor or to the minor's parent, guardian, or next friend as the court directs.

Subd. 2. **Actions.** All suits for damages under this section must be by civil action in a court of this state having jurisdiction.

Subd. 3. **Comparative negligence.** Actions under this section are governed by section 604.01.

Subd. 3a. **Defense.** The defense described in section 340A.503, subdivision 6, applies to actions under this section.

Subd. 4. **Subrogation claims denied.** There shall be no recovery by any insurance company against any liquor vendor under subrogation clauses of the uninsured, underinsured, collision, or other first party coverages of a motor vehicle insurance policy as a result of payments made by the company to persons who have claims that arise in whole or part under this section. The provisions of section 65B.53, subdivision 3, do not apply to actions under this section.

Subd. 5. [Repealed, 1987 c 152 art 2 s 5]

Subd. 6. **Common law claims.** Nothing in this chapter precludes common law tort claims against any person 21 years old or older who knowingly provides or furnishes alcoholic beverages to a person under the age of 21 years.

History: 1985 c 305 art 10 s 1; 1985 c 309 s 12; 1Sp1985 c 16 art 2 s 3 subd 1; 1987 c 152 art 1 s 1; art 2 s 3; 1989 c 301 s 15; 1990 c 555 s 10

NOTE: The court of appeals in *Itasca County vs. Palm Garden Bar*, August 26, 1986, docket number CO-86-447 (Minn. Ct. App. 1986) disapproved the revisor's codification of multiple amendments to the Dram Shop law made by the Minnesota Legislature in 1985. The case is subject to further appeal. That case and subsequent decisions should be examined in addition to the words of this section.

340A.802 NOTICE OF INJURY; DISCOVERY BEFORE ACTIONS.

Subdivision 1. **Notice of injury.** A person who claims damages and a person or insurer who claims contribution or indemnity from a licensed retailer of alcoholic beverages or municipal liquor store for or because of an injury within the scope of section 340A.801 must give a written notice to the licensee or municipality stating:

- (1) the time and date when and person to whom the alcoholic beverages were sold or bartered;
- (2) the name and address of the person or persons who were injured or whose property was damaged; and
- (3) the approximate time and date, and the place where the injury to person or property occurred.

A licensee or municipality who claims contribution or indemnification from another licensee or municipality must give a written notice to the other licensee or municipality in the form and manner specified in this section.

An error or omission in the notice does not void the notice's effect if the notice is otherwise valid unless the error or omission is of a substantially material nature.

Subd. 2. **Limitations; content.** In the case of a claim for damages, the notice must be served by the claimant's attorney within 120 days of the date of entering an attorney-client relationship with the person in regard to the claim. In the case of claims for contribution or indemnity, the notice must be served within 120 days after the injury occurs or within 60 days after receiving written notice of a claim for contribution or indemnity, whichever is applicable. No action for damage or for contribution or indem-

nity may be maintained unless the notice has been given. If requested to do so, a municipality or licensee receiving a notice shall promptly furnish claimant's attorney the names and addresses of other municipalities or licensees who sold or bartered liquor to the person identified in the notice, if known. Actual notice of sufficient facts reasonably to put the licensee or governing body of the municipality on notice of a possible claim complies with the notice requirement.

No action may be maintained under section 340A.801 unless commenced within two years after the injury.

Subd. 3. Bad faith notice. A claimant who in bad faith gives notice to a licensee who did not sell or barter liquor to the alleged intoxicated person is subject to liability for actual damages, which shall include the reasonable out-of-pocket attorney fees incurred by the licensee in the defense of the bad faith notice.

History: 1985 c 305 art 10 s 2; 1985 c 309 s 13; 1Sp1985 c 16 art 2 s 3 subd 1; 1Sp1986 c 3 art 1 s 44; 1987 c 152 art 1 s 1

MISCELLANEOUS PROVISIONS

340A.901 CITATION.

This chapter may be cited as the liquor act.

History: 1985 c 305 art 11 s 1; 1987 c 152 art 1 s 1

340A.902 DRUNKENNESS NOT A CRIME.

No person may be charged with or convicted of the offense of drunkenness or public drunkenness. Nothing herein prevents the prosecution and conviction of an intoxicated person for offenses other than drunkenness or public drunkenness nor does this section relieve a person from civil liability for an injury to persons or property caused by the person while intoxicated.

History: 1985 c 305 art 11 s 2; 1987 c 152 art 1 s 1

340A.903 SIZE OF CONTAINERS.

Notwithstanding any law or rule to the contrary, 3.2 percent malt liquor may be sold in containers of not more than 128 fluid ounces.

History: 1985 c 305 art 11 s 3; 1987 c 152 art 1 s 1; 1991 c 249 s 31

340A.904 SEIZED LIQUOR.

Subdivision 1. Disposal alternatives. Contingent on the final determination of any action pending in a court, the commissioner shall dispose of alcoholic beverages, material, apparatus, or vehicle seized by inspectors or employees of the department by:

- (1) delivering alcoholic beverages to the bureau of criminal apprehension or state patrol for use in chemical testing programs;
- (2) delivering on written requests of the commissioner of administration any material, apparatus, or vehicle for use by a state department;
- (3) selling intoxicating liquor to licensed retailers within the state;
- (4) selling any material, apparatus, or vehicle; or
- (5) destroying alcoholic beverages or contraband articles that have no lawful use.

Subd. 2. Sale procedure. A sale of intoxicating liquor, materials, apparatus, or vehicles may be made only with the written approval of the commissioner of administration and after notice of the sale is published in one issue of a legal newspaper published in St. Paul. Sealed bids must be publicly opened in the office of the commissioner of public safety on a date stated in the notice, which may not be less than 15 days or more than 30 days after its publication. The net proceeds from the sale of alcoholic beverages or articles must, after the deduction of the expense of seizure or sale, be deposited by the commissioner of public safety with the state treasurer and credited to the general fund.

Subd. 3. **Tax exemption.** Sales of alcoholic beverages made by the commissioner are exempt from the state excise tax if stamps evidencing the payment of the excise tax have not been placed thereon prior to the seizure if before resale proper excise stamps are attached to all containers.

History: 1985 c 305 art 11 s 4; 1987 c 152 art 1 s 1

340A.905 NOTICE OF VIOLATION.

When any municipal liquor store or licensed dealer in alcoholic beverages or agent or employee thereof is convicted of a violation of any provision of this chapter or any law or ordinance regulating the sale of alcoholic beverages or any violation of law or ordinance in the operation of the licensed premises, the court administrator shall, within ten days after the conviction, mail a written notice of the conviction to the clerk of the municipality or county auditor of the county having jurisdiction to issue alcoholic beverage licenses for the premises. A copy of the notice must be mailed to the commissioner of public safety.

History: 1985 c 305 art 11 s 5; 1Sp1986 c 3 art 1 s 82; 1987 c 152 art 1 s 1

340A.906 NONAPPLICABILITY.

This chapter does not apply to:

- (1) medicines intended for therapeutic purposes and not intended as a beverage;
- (2) industrial alcohol designed for mechanical, chemical, scientific, pharmaceutical, or industrial purposes; or
- (3) nonpotable compounds or preparations containing alcohol.

History: 1985 c 305 art 11 s 6; 1987 c 152 art 1 s 1

340A.907 INSPECTION.

The commissioner of public safety or any duly authorized employee may, at all reasonable hours, enter in and upon the premises of any licensee or permit holder under this chapter to inspect the premises and examine the books, papers, and records of a manufacturer, wholesaler, importer, or retailer for the purpose of determining whether the provisions of this chapter are being complied with. If the commissioner or any duly authorized employee is denied free access or is hindered or interfered with in making an inspection or examination, the licensee or permit holder is subject to revocation pursuant to section 340A.304 in the case of a wholesaler, manufacturer, or importer, and section 340A.415 in the case of a retailer.

History: 1987 c 310 s 13

340A.908 LIQUEUR-FILLED CANDY.

Liqueur-filled candy may only be sold in an exclusive liquor store.

History: 1990 c 554 s 16

340A.909 SALE OF MINNESOTA BEER AT PUBLIC FACILITIES.

Subdivision 1. **Minnesota-produced beer; required availability.** At any permanent or temporary building or structure owned or operated by the state, a political subdivision, or an instrumentality thereof, where beer is sold for on-premise consumption, the entity owning or operating the building or structure must insure that a Minnesota-produced beer is available for purchase at each station where beer is sold. This section applies to all such permanent or temporary buildings or structures without regard to whether sales of beer are made by the owning or operating government entity or employees thereof or by a person holding a lease or concession contract with the government entity.

Subd. 2. **Exceptions.** This section does not apply to:

- (1) municipal liquor stores; or

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(2) persons holding an event on property owned by a government entity where (a) the event is conducted under a temporary permit from that government entity, and (b) alcoholic beverages are provided to persons attending the event, at no cost to those persons.

History: *1990 c 554 s 17*