

CHAPTER 340A

LIQUOR

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340A.201 LIQUOR CONTROL AUTHORITY.

Subdivision 1. **1976 successor.** 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.

Subd. 2. **Delegation; 1996 consolidation; division director.** Effective October 1, 1996, the duties and powers vested previously in the commissioner of public safety and delegated to the department's division of liquor control are delegated and transferred to, and consolidated with, the division of alcohol and gambling enforcement of the department of public safety, under the supervision of a director appointed by the commissioner and serving in the unclassified service at the pleasure of the commissioner.

History: 1997 c 129 art 2 s 13

340A.301 MANUFACTURERS AND WHOLESALERS LICENSES.

[For text of subs 1 to 7a, see M.S.1996]

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 297G.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.

[For text of subd 9, see M.S.1996]

History: 1997 c 179 art 2 s 2

340A.302 IMPORTERS.

Subdivision 1. **Licenses required.** Except as provided in sections 297G.07, subdivision 2, 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.

[For text of subs 2 and 3, see M.S.1996]

History: 1997 c 179 art 2 s 3

340A.3021 IMPORTATION RESTRICTIONS.

Subdivision 1. **Delivery to wholesaler only.** (a) No person may consign, ship, or deliver alcoholic beverages to any place in Minnesota except to a licensed wholesaler's warehouse, if the alcoholic beverages:

(1) were manufactured outside Minnesota; and

(2) have not previously been unloaded into a licensed wholesaler's warehouse in Minnesota.

(b) No person may ship or consign into Minnesota any alcoholic beverages manufactured outside the state unless the alcoholic beverages are continuously in the possession of a motor carrier of property as defined in section 221.011, subdivision 47, or a common carrier as defined in section 218.011, subdivision 2, or are carried in a motor vehicle owned, leased, or rented by a wholesaler licensed under this chapter, between the time the alcoholic beverages are introduced into Minnesota and the time they are unloaded into a licensed wholesaler's warehouse.

Subd. 2. Exceptions. Subdivision 1 does not apply to:

(1) alcoholic beverages passing through Minnesota in interstate commerce;

(2) alcoholic beverages imported into Minnesota by individuals for personal use in the amounts permitted under section 297C.09 or 340A.417; and

(3) a holder of a manufacturer's warehouse permit.

Subd. 3. Conformity with federal and state regulations. No manufacturer, importer, or wholesaler licensed under this chapter may introduce into Minnesota or sell in Minnesota any bottle or other container containing alcoholic beverages unless the alcoholic beverages are packaged, labeled, and sold in conformity with all applicable federal and state regulations.

Subd. 4. Solicitations prohibited. No person may send or mail, or cause to be sent or mailed any letter, postcard, circular, catalog, pamphlet, or similar publication for delivery into Minnesota that is intended to solicit an order for alcoholic beverages to be shipped to any location into Minnesota other than a licensed wholesaler's warehouse.

Subd. 5. Cause of action. In addition to any penalties provided in this chapter, a person who is adversely affected by a violation of this section may bring an action in a court of appropriate jurisdiction to seek damages or injunctive relief. On a finding by the court that a person has violated or is violating this section, the court may enjoin the violation or violations. Any person licensed under this chapter is presumed to be adversely affected by a violation of this section.

History: 1997 c 129 art 1 s 1

340A.3055 MANUFACTURER'S WAREHOUSE PERMIT.

Subdivision 1. Permit required. No brewer, malt liquor manufacturer, or intoxicating liquor manufacturer may import alcoholic beverages to a central warehouse, central distribution center, or holding area in Minnesota that the brewer or manufacturer owns or leases unless the brewer or manufacturer has obtained from the commissioner a manufacturer's warehouse permit for the facility. A manufacturer's warehouse permit allows a brewer or manufacturer to import alcoholic beverages for storage at the facility for which the permit is issued. No person other than a licensed wholesaler, or a motor carrier of property as defined in section 221.011, subdivision 47, or a common carrier as defined in section 218.011, subdivision 2, acting on behalf of a brewer, malt liquor manufacturer, intoxicating liquor manufacturer, or licensed wholesaler, may accept delivery from or pick up alcoholic beverages from the facility. A licensed wholesaler may distribute alcoholic beverages only from the wholesaler's warehouse.

Subd. 2. Eligibility. A permit under this section may be issued only to a brewer, malt liquor manufacturer, or intoxicating liquor manufacturer:

(1) whose manufacturing facility or facilities are located outside Minnesota; and

(2) who holds a valid importer's license under section 340A.302.

Subd. 3. Fee. The annual fee for a permit under this section is \$1,000.

Subd. 4. Restriction on sale and deliveries. A holder of a permit under this section may sell alcoholic beverages stored in a facility to which a permit has been issued under this section only to:

(1) a wholesaler licensed under this chapter;

(2) a wholesaler licensed in another state; or

(3) an out-of-state or out-of-country entity that sells alcoholic beverages at wholesale or retail.

Subd. 5. Reports. A holder of a permit under this section must report monthly to the commissioner of revenue, in a form and at a time the commissioner prescribes:

(1) all alcoholic beverages imported into Minnesota and delivered to the permit holder's facility; and

(2) all sales of alcoholic beverages made from the facility.

Reports to the commissioner of revenue under this subdivision shall remain confidential unless a manufacturer authorizes the release of a report.

History: 1997 c 129 art 1 s 2

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

[For text of subs 1 to 3, see M.S.1996]

Subd. 4. Special provisions; sports, conventions, or cultural facilities; community festivals. (a) 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.

(b) The governing body of a municipality may authorize a holder of a retail on-sale intoxicating liquor license issued by the municipality to dispense intoxicating liquor off premises at a community festival held within the municipality. The authorization shall specify the area in which the intoxicating liquor must be dispensed and consumed, and shall not be issued unless the licensee demonstrates that it has liability insurance as prescribed by section 340A.409 to cover the event.

[For text of subs 5 to 12, see M.S.1996]

Subd. 13. Holders of multiple on-sale licenses; uniform licensing periods. Notwithstanding any local ordinance or other law, a local government unit may adjust the licensing period for any holder of multiple on-sale alcoholic beverage licenses in the state, upon request of the licensee. The local government unit may charge a fee for an adjustment of the licensing period.

History: 1997 c 129 art 1 s 3,4

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 issued by an insurer required to be licensed under section 60A.07, subdivision 4, or by an insurer recognized as an eligible surplus lines carrier pursuant to section 60A.206 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.

[For text of subds 2 to 3a, see M.S.1996]

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 \$25,000 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 \$50,000 of 3.2 percent malt liquor for the preceding year;

(3) they are holders of on-sale wine licenses with sales of less than \$25,000 for wine for the preceding year; or

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

History: 1997 c 129 art 1 s 5,6

340A.414 CONSUMPTION AND DISPLAY PERMITS.

[For text of subds 1 to 6, see M.S.1996]

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 297G.20.

[For text of subds 8 and 9, see M.S.1996]

History: 1997 c 179 art 2 s 4

340A.417 SHIPMENTS INTO MINNESOTA.

(a) Notwithstanding section 297G.07, subdivision 2, or any provision of this chapter, a winery licensed in a state which affords Minnesota wineries an equal reciprocal shipping privilege, or a winery located in Minnesota, may ship, for personal use and not for resale, not more than two cases of wine, containing a maximum of nine liters per case, in any calendar year to any resident of Minnesota age 21 or over. Delivery of a shipment under this section may not be deemed a sale in this state.

(b) The shipping container of any wine sent under this section must be clearly labeled to indicate that the package cannot be delivered to a person under the age of 21 years.

(c) No person may (1) advertise shipments authorized under this section, (2) by advertisement or otherwise, solicit shipments authorized by this section, or (3) accept orders for

shipments authorized by this section by use of the Internet. No shipper located outside Minnesota may advertise interstate reciprocal wine shipments in Minnesota.

(d) It is not the intent of this section to impair the distribution of wine through distributors or importing distributors, but only to permit shipments of wine for personal use.

(e) No criminal penalty may be imposed on a person for a violation of this section other than a violation described in paragraph (f) or (g). Whenever it appears to the commissioner that any person has engaged in any act or practice constituting a violation of this section, and the violation is not within two years of any previous violation of this section, the commissioner shall issue and cause to be served upon the person an order requiring the person to cease and desist from violating this section. The order must give reasonable notice of the rights of the person to request a hearing and must state the reason for the entry of the order. Unless otherwise agreed between the parties, a hearing shall be held not later than seven days after the request for the hearing is received by the commissioner after which and within 20 days after the receipt of the administrative law judge's report and subsequent exceptions and argument, the commissioner shall issue an order vacating the cease and desist order, modifying it, or making it permanent as the facts require. If no hearing is requested within 30 days of the service of the order, the order becomes final and remains in effect until modified or vacated by the commissioner. All hearings shall be conducted in accordance with the provisions of chapter 14. If the person to whom a cease and desist order is issued fails to appear at the hearing after being duly notified, the person shall be deemed in default, and the proceeding may be determined against the person upon consideration of the cease and desist order, the allegations of which may be deemed to be true.

(f) Any person who violates this section within two years of a violation for which a cease and desist order was issued under paragraph (e), is guilty of a misdemeanor.

(g) Any person who commits a third or subsequent violation of this section, including a violation for which a cease and desist order was issued under paragraph (c), within any subsequent two-year period is guilty of a gross misdemeanor.

History: 1997 c 129 art 1 s 7; 1997 c 179 art 2 s 5

340A.503 PERSONS UNDER 21; ILLEGAL ACTS.

[For text of subd 1, see M.S.1996]

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 unless under the supervision of a responsible person over the age of 21 for training, education, or research purposes. Prior notification of the licensing authority is required unless the supervised alcohol purchase attempt is for professional research conducted by post-secondary educational institutions or state, county, or local health departments; 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.

[For text of subs 3 to 6, see M.S.1996]

History: 1Sp1997 c 2 s 57

340A.504 HOURS AND DAYS OF SALE.

[For text of subs 1 and 2, see M.S.1996]

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 alcoholic beverages 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.

[For text of subs 4 to 6, see M.S.1996]

History: 1997 c 129 art 1 s 8

340A.7035 CONSUMER IMPORTATION; ILLEGAL ACTS.

A person who enters Minnesota from another state and who imports or possesses alcoholic beverages in excess of the tax-exempt quantities provided for in section 297G.07, subdivision 2, paragraphs (a), (b), and (c), is guilty of a misdemeanor. A person who enters Minnesota from a foreign country who imports or possesses alcoholic beverages on which the excise tax imposed by chapter 297G has not been paid, other than the tax-exempt quantities provided for in section 297G.07, subdivision 2, paragraphs (a), (b), and (c), is guilty of a misdemeanor. A peace officer, the commissioner of public safety, and employees designated by the commissioner of public safety may seize alcoholic beverages imported or possessed in violation of this section. This section does not apply to the consignments of alcoholic beverages shipped into this state by holders of Minnesota import licenses or Minnesota manufacturers and wholesalers when licensed by the commissioner of public safety or to common carriers with licenses to sell alcoholic beverages in more than one state when licensed by the commissioner of public safety to sell alcoholic beverages in this state.

History: 1997 c 179 art 2 s 6