

No. 651, A.]

[Published June 5, 1933.]

CHAPTER 206.

AN ACT to amend subsection (1) of section 10.04 of the statutes, relating to appointment of election officers in cities having a population of more than one hundred thousand.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. Subsection (1) of section 10.04 of the statutes is amended to read: (10.04) (1) Such board of election commissioners shall, during the month of January, 1920, and during the same month biennially thereafter, appoint three qualified voters as inspectors of election for each precinct in said cities. They shall be citizens of the United States; shall be men of good repute and character; able to read and write the English language; be of good understanding and capable. They must * * * *reside* in the ward for which they are selected to act * * * and be entitled to vote therein at the next election, and not hold any other public office or employment, notary public excepted, and shall not be candidates for any public office while acting as such inspectors of election.

SECTION 2. This act shall take effect upon passage and publication.

Approved June 2, 1933.

No. 686, A.]

[Published June 7, 1933.]

CHAPTER 207.

AN ACT to create subsection (10) and to amend paragraphs (a) and (c) of subsection (9) of section 66.05 of the statutes, relating to the sale of fermented malt beverages and light wines and providing penalties.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. A new subsection is added to section 66.05 of the statutes to read: (66.05) (10) LICENSES FOR FERMENTED MALT BEVERAGES. (a) DEFINITIONS. As used in this subsection:

1. "Brewer" shall mean any person, firm or corporation who shall manufacture for the purpose of sale, barter, exchange or

transportation fermented malt beverages or light wines as defined herein.

2. "Bottler" shall mean any person, firm or corporation, other than a brewer, who shall place in bottles fermented malt beverages or light wines as hereinafter defined, for the purpose of sale, barter, exchange, transportation, offering for sale, or having in possession with intent to sell.

3. "Wholesaler" shall mean any person, firm or corporation, other than a brewer or bottler, who shall sell, barter, exchange, offer for sale, have in possession with intent to sell, deal or traffic in fermented malt beverages or light wines as herein defined, in quantities of not less than four and one-half gallons at one time, not to be consumed in or about the premises where sold.

4. "Retailer" shall mean any person who shall sell, barter, exchange, offer for sale or have in possession with intent to sell, any fermented malt beverages or light wines in quantities of less than four and one-half gallons at any one time.

5. "Permit" shall mean a permit issued to a brewer or bottler by the commissioner of internal revenue of the United States.

6. "Operator" shall mean any person who shall draw or remove any fermented malt beverage or light wine for sale or consumption from any barrel, keg, cask, bottle or other container in which fermented malt beverages shall be stored or kept on premises requiring a Class "B" license, for sale or service to a consumer for consumption in or upon the premises where sold.

7. "License" shall mean an authorization or permit issued by the city council or village or town board, relating to the sale, barter, exchange, or traffic in fermented malt beverages or light wines.

8. "Application" shall mean a formal written request filed with the clerk of the town, city or village in which the applicant shall be a resident, for the issuance of a license, supported by a verified statement of facts.

9. "Regulation" shall mean any reasonable rule or ordinance adopted by the council or board of any city, village or town, not in conflict with the provisions of any statute of the state of Wisconsin.

10. "Fermented Malt Beverages" shall mean any liquor or liquid capable of being used for beverage purposes, made by the alcoholic fermentation of an infusion in potable water of barley malt and hops, with or without, unmalted grains or decorticated and de-

germinated grains or sugar containing one-half of one per centum or more of alcohol by volume and not more than three and two-tenths per centum of alcohol by weight. No fermented malt beverages shall be sold in this state after September 1, 1933, unless sixty-six and two-thirds per cent or more of the grain used in its manufacture consists of barley malt.

11. "Light wines" shall mean any vinous liquor or fruit juice containing one-half of one per centum or more of alcohol by volume, and not more than three and two-tenths per centum of alcohol by weight.

(b) *Labels.* 1. Every brewer shall file with the state treasurer, in such form as he shall prescribe, proof that said brewer is the possessor of a permit, together with the permit number assigned to him. The state treasurer shall thereupon register such permit number in the name of said brewer. Every bottler shall make application to the state treasurer for the assignment to him of a registration number, which shall be registered in the name of said bottler. The numbers so registered shall appear in plain and legible type upon a label which shall be affixed by each brewer or bottler to every barrel, keg, cask, bottle, or other container in which fermented malt beverage or light wine shall be packed by said brewer or bottler.

2. No fermented malt beverage or light wine shall be sold, bartered, exchanged, offered or exposed for sale, kept in possession with intent to sell, or served in any licensed premises unless there shall be placed upon each barrel, keg, cask, bottle or other container a label bearing the name and address of the brewer or bottler manufacturing or bottling said beverage and, in plain legible type, the registration number of said brewer or bottler.

3. The possession of any fermented malt beverages or light wines in or about any licensed premises which shall not be labeled as herein provided, except upon premises of a brewer or bottler, shall be deemed prima facie evidence that such products are kept and possessed with intent to sell, offer for sale, display for sale, barter, exchange or give away such fermented malt liquor or light wine.

(c) *Restrictions on brewers, bottlers and wholesalers.* 1. No brewer, bottler, wholesaler, or corporation a majority of whose stock is owned by any brewer, bottler or wholesaler, shall supply, furnish, lease, give, pay for, or take any chattel mortgage on any furniture, fixtures, fittings or equipment used in or about any

place which shall require a Class "B" license except as provided in subdivision 2 of this paragraph, nor shall any brewer, bottler, wholesaler or corporation a majority of whose stock is owned by any brewer, bottler or wholesaler, lease any real estate acquired after the effective date of this subsection to any person, for the purpose of conducting therein any business requiring a Class "B" license, but this prohibition as to leasing of real estate shall not apply to a hotel, or to a restaurant not a part of or located in or upon the premises of any mercantile establishment, or to a bona fide club, society or lodge that shall have been in existence for not less than six months prior to the date of granting such license. No brewer, bottler or wholesaler shall advance, pay or furnish money for any license fees or taxes which may be required to be paid by any retailer or be otherwise financially interested in, directly, or indirectly, in any Class "B" license, except as provided in subdivision 2 of this paragraph. Any licensee who shall be a party to any violation of this subdivision or who shall receive the benefits thereof shall be equally guilty of a violation of the provisions thereof.

2. A brewer may maintain and operate in and upon the brewery premises a place for the service or sale of fermented malt beverages or light wines, for which a Class "B" license shall be required. Said license shall be issued to the brewer, if an individual, or to any one of the officers or a member of a co-partnership, if such brewer be a corporation or a co-partnership. A brewer may own the furniture, fixtures, fittings, furnishings and equipment used therein and shall pay any license fee or tax required for the operation of the same.

3. A brewer or bottler may own and operate depots or warehouses, from which sales of fermented malt beverages or light wines, not to be consumed in or about the premises where sold, may be made in original packages in quantities of not less than four and one-half gallons at any one time. A separate wholesaler's license shall be required for each warehouse or depot maintained or operated.

4. "Brewers" and "Bottlers" who shall desire to sell (in the original packages or containers) fermented malt beverages or light wines not to be consumed in or upon the premises where sold, shall be required to obtain a wholesaler's license if said fermented malt beverages or light wines are sold in quantities of not less than four and one-half gallons at any one time, or a

class "A" license if such sales are made in quantities of less than four and one-half gallons at any one time.

(d) *Licenses; general requirements.* 1. No person shall sell, barter, exchange, offer for sale, or have in possession with intent to sell, deal, or traffic in fermented malt beverages or light wines, unless licensed as provided in this subsection by the governing board of the city, village, or town in which the place of business is located.

2. The governing body of every city, village and town shall have the power, but shall not be required, to issue licenses to wholesalers and retailers for the sale of fermented malt beverages or light wines within its respective limits, as herein provided. Said retailers' licenses shall be of two classes, to be designated as classes "A" and "B".

3. The electors of any city, village or town may, by ballot, at the spring election, determine that no license shall be issued. At such election a separate ballot box shall be provided for such ballots. Such ballots shall read:

For the issuing of license

Against the issuing of license

Place an X or check mark in the square opposite the line indicating how you want to vote.

Such ballots shall be counted and return made as other ballots and the clerk shall spread upon the minutes of the municipality such returns. The result of such election shall determine the policy of the municipality until changed by ballot.

4. All licenses shall be granted only upon written application and shall be issued for a period of one year to expire on the thirtieth day of June of each calendar year; provided, that licenses may be granted which shall expire on the thirtieth day of June, 1933, upon payment of one-fourth of the annual license fee. A separate license shall be required for each place of business. Said licenses shall particularly describe the premises for which issued, shall not be transferable, and shall be subject to revocation for violation of any of the terms or provisions thereof or of any of the provisions of this subsection.

5. No license shall be imposed upon the sale of fermented malt beverages or light wines upon any railroad, sleeping, buffet car or steamboat while in transit.

(e) *Wholesalers' licenses.* Wholesalers' licenses may be issued only to domestic corporations or to persons of good moral character who shall have been residents of this state continuously for not less than one year prior to the date of filing application for said license. Said licenses shall authorize sales of fermented malt beverages or light wines only in original packages or containers and in quantities of not less than four and one-half gallons at any one time, not to be consumed in or about the premises where sold. The fee for a wholesaler's license shall not exceed twenty-five dollars per year or fractional part thereof.

(f) *Class "A" retailers' licenses.* Class "A" retailers' licenses shall be issued only to domestic corporations or to persons of good moral character who shall have resided in this state continuously for not less than one year prior to the date of the filing of application for said license. Said license shall authorize sales of fermented malt beverages or light wines only for consumption away from the premises where sold and in the original packages, containers, or bottles and unrefrigerated. The license fee for a Class "A" license shall not exceed ten dollars per year or fractional part thereof. Not more than two Class "A" licenses shall be issued in the state to any one corporation or person, and in each application for a Class "A" license the applicant shall state that he has not made application for more than one other Class "A" license for any other location in the state. No such license shall be issued to any person acting as agent for or in the employ of another.

(g) *Class "B" retailers' licenses.* 1. Class "B" retailers' licenses shall be issued only to persons of good moral character, who shall be citizens of the United States and of the state of Wisconsin, and shall have resided in this state continuously for not less than one year prior to the date of the filing of the application. No such license shall be granted for any premises where any other business shall be conducted, in connection with said licensed premises except that such restriction shall not apply to a hotel, or to a restaurant not a part of or located in any mercantile establishment, or to a combination grocery store and tavern, or to a bowling alley or recreation premises or to a bona fide club, society or lodge that shall have been in existence for not less than six months prior to the date of filing application for such license. Not more than two Class "B" licenses shall be issued in the state to any one person, and in each application for a Class "B" license the applicant shall state that he has not made application for more than one other

Class "B" license for any other location in the state. No such license shall be issued to any person acting as agent for or in the employ of another, except that this restriction shall not apply to a hotel or to a restaurant not a part of or located in or upon the premises of any mercantile establishment, or to a bona fide club, society or lodge that shall have been in existence for not less than six months prior to the date of application. Such license for a hotel, restaurant, club, society or lodge may be taken in the name of an officer or manager, who shall be personally responsible for compliance with all of the terms and provisions of this subsection.

2. The amount of the license fee shall be determined by the city, village or town in which said licensed premises are located, but said license fee shall not exceed one hundred dollars per year, but licenses may be issued at any time for a period of six months in any calendar year for which one-half of the license fee shall be paid. Such six months' licenses shall not be renewable during the calendar year in which issued. Licenses may also be issued to bona fide clubs, state, county or local fair associations or agricultural societies, lodges or societies that have been in existence for not less than six months prior to the date of application or to posts now or hereafter established, of ex-service men's organizations, authorizing them to sell fermented malt beverages or light wines at a particular picnic or similar gathering, or at a meeting of any such post, or during a fair conducted by such fair associations or agricultural societies, for which a fee of not to exceed ten dollars may be charged as fixed by the governing board. All Class "B" licenses shall be posted in a conspicuous place in the room or place where fermented malt beverages or light wines are drawn or removed for service or sale.

3. Persons holding a Class "B" license may sell fermented malt beverages or light wines either to be consumed on the premises where sold or away from such premises. They may also sell beverages containing less than one-half of one per centum of alcohol by volume without obtaining a special license to sell such beverages under subsection (9) of this section.

(h) *Conditions of licenses.* Wholesalers' and retailers' licenses shall be issued subject to the following restrictions:

1. No fermented malt beverages or light wines shall be sold or consumed upon any licensed premises during such hours as may be prohibited by local ordinance.

2. No fermented malt beverages or light wines shall be sold to any person under the age of eighteen years unless accompanied by parent or guardian.

3. No fermented malt beverages or light wines shall be sold to any person who is intoxicated.

4. No beverages of an alcoholic content prohibited by the laws of the United States shall be kept in or about licensed premises.

5. No fermented malt beverages or light wines shall be sold unless the barrel, keg, cask, bottle, or other container containing the same shall have thereupon at the time of sale a label of the kind and character required by paragraph (b) of this subsection. Every bottle shall contain upon the label thereof a statement of the contents in fluid ounces, in plain and legible type.

6. No person licensed under this subsection shall use the word "saloon" upon any sign or advertising or as a designation of any premises in or upon which fermented malt beverages or light wines are sold or kept for sale.

(i) *Operators' licenses.* 1. Every city council, village or town board, may issue a license known as an "Operator's" license, which shall be granted only upon application in writing. Said operator's license shall be issued only to persons of good moral character, who shall have been citizens of the United States and residents of this state continuously for not less than one year prior to the date of the filing of the application. Such licenses shall be operative only within the limits of the city, village or town in which issued. For the purpose of this paragraph any member of the immediate family of the licensee shall be considered as holding an operator's license.

2. There shall be upon premises operated under a Class "B" license, at all times, the licensee or some person who shall have an operator's license and who shall be responsible for the acts of all persons serving as waiters, or in any other manner, any fermented malt beverages or light wines to customers. No person other than the licensee shall serve fermented malt beverages or light wines in any place operated under a Class "B" license unless he shall possess an operator's license, or unless he shall be under the immediate supervision of the licensee or a person holding an operator's license, who shall be at the time of such service upon said premises.

3. The fee for an operator's license shall not exceed five dollars per year, shall be issued for one year, and shall expire on the thir-

tieth day of June of each calendar year. An operator's license may be granted, which shall expire on the thirtieth day of June, 1933, upon a payment of one-fourth of the amount of the prescribed license fee.

4. Any violation of any of the terms or provisions of this subsection by any person holding an operator's license shall be cause for revocation of said license.

(j) The common council of any city, the board of trustees of any village and the town board of any town may adopt any reasonable rule or regulation for the enforcement of this section not in conflict with the provisions of any statute.

(k) *Municipal regulations.* Nothing in this subsection shall be construed as prohibiting or restricting any city, village or town ordinances from placing additional regulations in or upon the sale of fermented malt beverages or light wines, not in conflict with the terms and provisions of this subsection.

(1) *Court review.* 1. The action of any city council, village or town board in the granting of revocation of any license, or the failure of said city council, village or town board to revoke any license for good cause because of the violation of any of the provisions of this subsection may be reviewed by any court of record in the county in which the application for said license was filed or said license issued, upon application by any applicant, licensee or any citizen of such city, town or village.

2. The procedure in said review shall be the same as in civil actions instituted in said court. The person desiring such review shall file his pleadings, which shall be served upon the city council, village or town board in the manner provided for service in civil actions by statute, and a copy thereof shall be served upon the licensee. The said city council, village or town board or licensee shall have twenty days within which to file his or their answer to said complaint, and thereupon said matter shall be deemed at issue and hearing may be had before the presiding judge of said court within five days, upon due notice served upon the opposing party. The hearing shall be before the presiding judge without a jury. Subpoenas for witnesses shall be issued and their attendance compelled, in accordance with the provisions of statute relating to civil proceedings. The decision of the presiding judge shall be filed within ten days thereafter, and a copy thereof transmitted to each of the parties, and said decision shall be binding unless appeal be

had to the supreme court in the manner provided by statute for appeals in civil actions.

(m) *Penalties.* 1. Any person who shall violate any of the provisions of this subsection, or of any municipal ordinance adopted pursuant thereto shall be deemed guilty of a misdemeanor, and upon conviction shall be punished by a fine of not more than five hundred dollars, or by imprisonment in the county jail for a term of not more than ninety days, or by both such fine and imprisonment, and his license shall be subject to revocation. No city, village or town shall pass any ordinance which shall fix the penalty for violation of any ordinance so that the same shall conflict with the provisions of this subsection. In the event that such person shall be convicted of a second offense, such offender, in addition to the penalties herein provided, shall forthwith forfeit any license issued to him without further notice, and no license shall thereafter be granted to such person for a period of one year from the date of such forfeiture.

2. Any person, other than the person or corporation registering the same, who shall place upon any barrel, keg, cask, bottle, or other container containing any fermented malt beverage or light wine any label bearing a number registered by any other person or corporation, or who shall place upon any label a permit number not registered in the office of the state treasurer shall be guilty of a misdemeanor, and upon conviction shall be punished by imprisonment in the county jail for not more than one year.

(n) *Legislative intent.* 1. The provisions of this section shall be construed as an enactment of state-wide concern for the purpose of providing a uniform regulation of the sale of fermented malt liquors or light wines.

2. The several terms and provisions of this subsection shall be deemed severable, and if any provision of this subsection or the application thereof to any person or circumstances is held invalid, the remainder of the subsection and the application of such provisions to other persons or circumstances, shall not be affected thereby.

SECTION 2. Paragraphs (a) and (c) of subsection (9) of section 66.05 of the statutes are amended to read: (66.05) (9) LICENSES FOR * * * BEVERAGES OF LESS THAN ONE-HALF PERCENTUM OF ALCOHOL. (a) Each town board, village board and common council shall grant licenses to such persons as they deem proper for the sale of * * * bev-

erages containing less than one-half of one per centum of alcohol by volume to be consumed on the premises where sold and to manufacturers, wholesalers, retailers and distributors of * * * *such beverages*, for which a license fee of not less than five dollars nor more than fifty dollars, to be fixed by the board or council, shall be paid, except that where * * * *such beverages* are sold, not to be consumed on the premises, the license fee shall be five dollars. Such license shall be issued by the town, village or city clerk, shall designate the specific premises for which granted and shall expire the thirtieth day of June thereafter. The full license fee shall be charged for the whole or a fraction of the year. No such * * * *beverages* shall be manufactured, sold at wholesale or retail or sold for consumption on the premises, or kept for sale at wholesale or retail, or for consumption on the premises where sold without such license.

(c) Each town board, village board and common council shall have authority by resolution or ordinance to adopt such regulations as it may deem reasonable and necessary regarding the location of licensed premises, the conduct thereof, the sale of * * * *beverages containing less than one-half of one per centum of alcohol by volume* and the revocation of any license or permit.

SECTION 3. This act shall take effect upon passage and publication.

Approved June 6, 1933.

No. 200, S.]

[Published June 8, 1933.]

CHAPTER 208.

AN ACT to amend subsections (1) and (2), the introductory paragraph and paragraphs (a), (b), (d) and (f) of subsection (3), and subsections (4), (6), (7) and (10) of section 70.64 of the statutes, relating to review of taxation-district assessments.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. Subsections (1) and (2), the introductory paragraph and paragraphs (a), (b), (d) and (f) of subsection (3), and subsections (4), (6), (7) and (10) of section 70.64 of the statutes are amended to read: 70.64 REVIEW OF TAXATION-DISTRICT ASSESSMENT. (1) BY * * * *TAX COMMIS-*