

No. 146, S.]

[Published July 18, 1919.]

CHAPTER 556.

AN ACT to suspend the operation of chapter 66 of the statutes of 1917 entitled "Excise and the sale of intoxicating liquors" and to create sections 1569—1 to 1569—22, inclusive of the statutes, relating to intoxicating liquors, to provide for the enforcement of Article 18 of the Constitution of the United States providing penalties, making an appropriation and defining intoxicating liquor.

The people of the state of Wisconsin, represented in Senate and Assembly, do enact as follows:

SECTION 1. Chapter 66 of the statutes of Wisconsin for 1917, entitled "Excise and the sale of intoxicating liquors" is hereby suspended and declared to be inoperative so long as this act shall be and remain in force and effect.

SECTION 2. Twenty-two new sections are added to the statutes to read: Section 1569—1. After this act becomes operative, the manufacture, sale or transportation of intoxicating liquors, as herein defined, within, the importation thereof into, or the exportation thereof from the state of Wisconsin, except as may be herein or hereafter provided, is hereby prohibited.

Section 1569—2. This act shall be deemed to be an exercise of the power reserved by and granted to this state by Article 18 of the constitution of the United States.

Section 1569—3. Intoxicating liquor, within the purview of said constitutional amendment and the provisions of this act shall be construed to be and include all liquors and drinks of whatsoever name or description, including patent or proprietary medicines, capable of being used as a beverage containing more than two and one-half per centum of alcohol by weight at sixty degrees Fahrenheit. But if the congress of the United States shall hereafter by a valid act which shall become the law of the land and be paramount to any state laws on the subject, define the words "intoxicating liquors" as used in article 18 of the constitution of the United States, then such definition, from the time such act of congress becomes operative, shall be the definition thereof under this subdivision.

Section 1569—4. Pure grain alcohol, wines and other liquors, containing more than two and one-half percentum of alcohol by weight, may be manufactured in or imported into or exported from this state for medicinal, mechanical, scientific and sacramental purposes and sold for such purposes only and may be so sold as herein provided and not otherwise. Denatured alcohol may

be freely manufactured and sold, provided its manufacture complies strictly with the laws now or hereafter enacted by congress relative thereto and the rules and regulations issued by the department of internal revenue.

Section 1569—5. There is hereby created the office of "Prohibition Commissioner." On or before the sixteenth day of January, 1920, the governor shall, by and with the advice and consent of the senate, appoint a suitable person as such prohibition commissioner. Such prohibition commissioner shall have his office in the capitol, at Madison, to be provided at public expense, and such officer shall hold his office for the term of four years from and after the date of his appointment and until his successor shall be appointed. Any vacancy occurring in said office shall likewise be filled by executive appointment. Said prohibition commissioner shall receive a salary of four thousand dollars per year and his actual and necessary expenses incurred in the discharge of his duties. He shall take and subscribe the constitutional oath of office and file a bond, for the faithful discharge of his official duties, in the sum of twenty-five thousand dollars, which shall be approved by the governor. Such prohibition commissioner may appoint necessary deputies, to be known and designated as "Deputy Prohibition Commissioners," and may employ all necessary clerks and fix the compensation and remuneration of all such deputies and clerks so appointed and file all such appointments, together with a statement showing the compensation or salary so fixed, prior to the employe or appointee entering upon his duties or employment, with the secretary of state; and such appointee or employe shall receive the compensation so fixed, to be audited, allowed and paid on the certificate of the prohibition commissioner in the same manner as salaries and compensations are now allowed and paid to state officials and employes. The prohibition commissioner shall have and possess a suitable official seal, and all permits issued by him under the provisions of this act shall have affixed thereto a clear impression of said official seal. Other documents may be authenticated by a printed copy of the impression of said official seal. Said deputies may perform all or any of the duties herein provided to be performed by the prohibition commissioner. All such deputies shall file such bonds as the prohibition commissioner shall require, to be approved by the prohibition commissioner. It shall be the duty of the prohibition commissioner to exercise and perform all the duties and acts required of him by this act. For failure to perform such duties he shall be subject

to removal by the governor, for cause, upon due notice and an opportunity to defend.

Section 1569—6. It shall be the duty of all district attorneys, sheriffs, deputy sheriffs, constables and other executive law enforcement officers to aid and assist said prohibition commissioner or his deputies in the enforcement of the provisions of this act.

Section 1569—7. It shall be the duty of the prohibition commissioner to designate and issue a permit (which permit may be revoked for cause) to one or more persons in each municipality in this state who shall be authorized to have in possession and sell under such general rules and regulations as he may prescribe, alcohol, vinous, spirituous or malt liquors containing in excess of two and one-half percentum of alcohol by weight to be used exclusively for medicinal, mechanical, scientific and sacramental purposes. The person so designated shall execute a bond in the penal sum of one thousand dollars for the faithful compliance with the rules and regulations so prescribed by the prohibition commissioner with reference to the possession and sale of any such liquors. In the event of failure to comply strictly therewith the amount of said bond shall be forfeited to the state of Wisconsin and in addition the person so offending shall be liable to all other penalties herein prescribed.

Section 1569—8. No person who shall keep or have in possession for retail sale non-intoxicating beverages as defined in section 1569—3 hereof shall at any time have in his possession or under his control in the building in which he conducts his business or selling or dispensing any such beverages any intoxicating liquor as defined in said section. The prohibition commissioner or his deputies shall have the right of access at all reasonable hours, without notice, to the premises occupied by any such retail dealer in non-intoxicating beverages, to investigate if this provision is being violated.

Section 1569—9. No place in which non-intoxicating drinks or beverages, as defined in section 1569—3 hereof, are sold or dispensed for consumption upon the premises where sold, shall maintain a standing bar or counter at which any such drinks or beverages containing alcohol in any degree are permitted to be drunk or consumed by the purchaser.

Section 1569—10. The common council of cities, the village board of villages and the town board of towns for the purpose of regulating and enforcing the sanitary conduct of places in which non-intoxicating beverages as defined in section 1569—3 hereof are manufactured or sold may pass ordinances fixing the terms and conditions under which such places may be conducted and

operated and may limit the number of such places, and the locations at which such business or any part thereof may be conducted, and may require that any person who wishes to operate any such business shall first procure a permit (which permit may be revoked for failure to comply with the conditions of this act or any ordinances relating to said business.) A fee of not more than One Hundred Dollars per annum may be exacted before the granting of such permit and shall be payable in such amounts and at such times as may be fixed by ordinance. The commodities to be sold under such permit may be separated into classes and a separate fee may be exacted for each class not exceeding in all the maximum of One Hundred Dollars.

It shall be the duty of the treasurer of each town, village or city in this state wherein a fee is collected for a permit as herein provided, to remit to the state treasurer within sixty days after such fee is collected five per cent of the total amount collected, and such moneys when so received by the state treasurer shall be set aside and constitute a separate fund for the payment of salaries and other expenses of the prohibition commissioner, and in carrying on the work connected with the enforcement of this act.

Section 1569—11. Whenever a number of the qualified electors of any town, village or city equal to or more than ten per centum of the number of votes cast therein for governor at the last general election shall present to the clerk thereof a petition in writing signed by them praying that the electors thereof may have submitted to them the question whether or not any permit shall be issued under the provisions of this act to sell any non-intoxicating beverages as defined in section 3 hereof, containing alcohol in any degree whatsoever as a beverage and shall file such petition with the clerk at least two weeks prior to the first Tuesday of April next succeeding, such clerk shall forthwith make an order providing that such question shall be submitted on the first Tuesday of April next succeeding the date of such order. The city clerk making such order shall give notice of the election to be held on such question in the manner notice is given for the regular city election; town and village clerks who make such orders shall give notice by posting written or printed notices in at least five public places in the town or village not less than two weeks before the day of election. The election on such question shall be held and conducted and the returns canvassed in the manner in which elections in such city, town or village on other questions are conducted and the returns thereof canvassed. The result shall be certified by the canvassers

immediately upon the determination thereof and be entered upon the records of the town, village or city, and shall remain in effect until another election is held for the same purpose.

The ballots upon the question so submitted shall be deposited in a separate box in each town and election district and shall contain the words "For permit" and "Against permit" and shall otherwise conform with the provisions of subsection 8 of section 6.23. If a majority of the ballots cast upon such question be "Against permit," then it shall be unlawful for any person to sell or traffic in any of the beverages defined in section 1569—3 of this act as non-intoxicating which contain any alcohol whatsoever in the town, village or city so voting "Against permit" and any permit granted or issued therein so long as the result of such election shall remain unreversed by another election held for the same purpose shall be void, but if a majority of the ballots so cast shall be "For permit," it shall be lawful for the town board, village trustee or common council, as the case may be, to grant permit for the sale of such beverages.

The provisions of this act shall not authorize the sale of beverages containing alcohol in any town, village or city in this state where such sale is now illegal until an election shall have been had under the provisions hereof permitting such sale under the conditions in this act prescribed.

Section 1569—12. Manufacturers and chemists who use alcohol for industrial and scientific purposes or in the manufacture of products not suitable for use as an intoxicating beverage, superintendents of hospitals, museums, laboratories, educational institutions, dentists, physicians and persons, for lawful purposes, may secure a permit from the prohibition commissioner, authorizing the purchase and possession of alcohol and liquors for the purposes permitted by this act, upon making due application therefor in accordance with such rules and requirements as the prohibition commissioner may promulgate, and upon filing a bond in such sum, not to exceed two thousand dollars, as in the discretion of the prohibition commissioner shall be required, conditioned that said alcohol and other liquors will be used only for the purposes stated in the application and permit and in accordance with law. Such permit may be revoked by the prohibition commissioner if the conditions thereof are not complied with, after notice is given to the holder of such permit to appear before said prohibition commissioner and show cause why such permit should not be revoked.

Section 1569—13. This act shall not be construed to authorize the confiscation or seizure or make unlawful the possession

of liquors defined in section 1569—3 hereof as intoxicating liquor, owned by individuals and possessed and kept for the individual use of the owners thereof at the time this act becomes operative; provided such liquors were lawfully purchased prior thereto for private purposes and not for purposes of unlawful sale, but all such liquors kept by retail dealers in non-intoxicating beverages as defined in said section and on hand in the building where such business is conducted at the time this act becomes operative, or at any time subsequent thereto, shall be deemed contraband and subject to seizure by the prohibition commissioner.

Section 1569—14. In addition to the powers and duties conferred upon the prohibition commissioner by this act, he is authorized and empowered to make other and further reasonable rules and regulations relative to the possession and sale of intoxicating liquors or drinks as a beverage as herein defined, general in their application, not inconsistent herewith, for the enforcement of the provisions of this act, and all such rules and regulations, including those herein specifically enumerated, shall have the force and effect of law.

Section 1569—15. All alcohol and intoxicating liquor as defined in section 1569—3 hereof shipped or carried into this state for any lawful purpose or use permitted by the terms hereof shall be plainly labeled on the outside describing the nature and character of the liquor, the name of the consignee and consignor in plain letters in the English language. All such liquors not so labeled shall be forfeited to the state and be subject to confiscation by the prohibition commissioner and by him delivered to public state institutions for medicinal, mechanical or scientific use.

Section 1569—16. Premises occupied by the owner or by a tenant whereon intoxicating liquors are sold contrary to the provisions of this act are declared a nuisance and may be abated in an action brought in the name of the state on complaint of any citizen. No such action shall be maintained with respect to premises occupied by a tenant of the owner until notice of such violation of law is first given the owner and he has an opportunity to evict such tenant. Proceedings for such eviction must be instituted within ten days after notice and promptly prosecuted to judgment or any citizen may intervene or begin such action in the name of the state and prosecute the same. Upon final judgment that such nuisance exists, that part of the premises so used in violation of law shall be abated and an injunction issued permanently restraining their use for any purpose contrary to law and the owner may be required to give bond in such sum as the

court may deem adequate that said premises or the part thereof so abated and declared a nuisance will not thereafter be used for the sale of intoxicating liquors.

Section 1569—17. No person shall advertise, sell, deliver or have in possession any preparation, compound or tablet manufactured for the purpose of adding the same to or mixing the same with a non-intoxicating beverage or drink from which intoxicating liquors as defined in section 1569—3 hereof can be made, unless he has a permit from the prohibition commissioner authorizing such possession, sale or advertisement.

Section 1569—18. The provisions of this act shall not be construed to prevent:

(1) The manufacture, sale and keeping and storing for sale by any person having a permit of any medical preparation manufactured in accordance with formulae, prescribed by the United States Pharmacopoeia or national formulary or any patent or proprietary remedy in conformity with the laws of this state, unless such medical preparations are suitable for beverage purposes.

(2) The manufacture and sale of toilet, medical and antiseptic preparations or solutions neither designed nor sold for use as beverages.

(3) The manufacture, keeping for sale or selling of flavoring extracts manufactured or sold for culinary or flavoring purposes only.

(4) Any person having a permit who is a manufacturer of flavoring extracts or toilet, medicinal, antiseptic preparations or solutions, patent or proprietary medicines or preparations, from purchasing, possessing, transporting and storing alcohol necessary for the manufacture of such articles.

Section 1569—19. Any person who shall vend, sell, deal or traffic in, or for the purpose of evading any law of this state, give away intoxicating liquor as herein defined, except as herein provided, or violate any other provision hereof or any lawful order made under the provisions of this act, shall be guilty of a misdemeanor and upon conviction shall be fined not less than one hundred dollars or more than five hundred dollars or by imprisonment not exceeding six months or by both such fine and imprisonment in the discretion of the court. And in the event of a second conviction for any such offense within one year may be punished by a penalty equal to double the maximum penalty prescribed for a first offense.

Section 1569—20. There is hereby appropriated a sufficient sum to provide for the payment of salaries and compensation of

said prohibition commissioner, his deputies, and employes, and to carry this act into effect, not exceeding fifteen thousand dollars in all in any one year.

Section 1569—21. If at any time after the passage of this act the eighteenth amendment to the constitution of the United States shall become void and of no effect, then and in such case and from the date said amendment is declared to be or becomes void and of no effect this act shall be null and void and the provisions of chapter 66 herein referred to in section 1 hereof shall again become operative and of full force and effect.

Section 1569—22. If any of the provisions of this act shall be held to be invalid all other provisions of the same which are not so expressly held to be invalid shall continue in full force and effect.

SECTION 3. This act shall be in force and effect on passage and publication on and after January 16, 1920, and continue in force and effect to and including January 1, 1921.

The prohibition commissioner shall have power to enforce the provisions of this act and all other acts relative to intoxicating liquor, and it shall be his duty and the duty of all peace officers of the state, to make complaints and institute prosecutions for a violation of the same, and all such officers and any citizens may on information and belief make complaint before any magistrate or court to the effect that provisions of this act are being violated and that intoxicating liquors are being kept for purposes of unlawful sale at a particular place to be designated, and praying that a warrant may be issued to search the premises where said intoxicating liquors are so being kept and seize the same, and upon filing any such complaint a warrant may issue commanding the officer to search the premises and seize any and all liquors believed to be intoxicating and bring the same before the court for further proceedings according to law. The procedure shall be substantially the same as the procedure provided for search warrants in larceny cases and such liquors shall be subject to such disposition as the prohibition commissioner may order.

SECTION 4. The question whether the provisions of this act shall continue to be in force and effect from and after January 1, 1921, shall be submitted to the people of this state in the manner provided by law for the submission of an amendment to the constitution at the election to be held on the first Tuesday after the first Monday in November, 1920. If approved by a majority of the votes cast upon that question, it shall continue of force and effect from and after January 1, 1921, otherwise it shall cease to be of force and effect and become null and void.

Upon the ballot shall be printed: "Shall chapter——(insert on the ballot the number of the chapter) of the laws of 1919 entitled (insert the title of the act) be continued of force and effect?"

SECTION 5. This act takes effect as above provided, subject, however, to all provisions herein contained for its submission to the people for their ratification or rejection.

Approved July 12, 1919.

No. 268, S.]

[Published July 19, 1919

CHAPTER 557.

AN ACT to repeal sections 1379—11, 1379—12, 1379—13, 1379—14, 1379—15, 1379—16, 1379—18, 1379—19, 1379—20, 1379—20a, 1379—20m, 1379—21, 1379—22, 1379—22l, 1379—22m, 1379—24, 1379—24c, 1379—24m, 1379—25, 1379—25a, 1379—25b, 1379—26, 1379—27, 1379—28, 1379—28a, 1379—28m, 1379—29, 1379—30, 1379—30a, 1379—30b, 1379—30bm, 1379—30c, 1379—30d, 1379—30e, 1379—30f, 1379—31, 1379—31a, 1379—31b, 1379—31c, 1379—31cm, 1379—31d, 1379—31e, 1379—31f, 1379—31g, 1379—31gm, 1379—31h, 1379—31i, 1379—31j, 1379—31k, 1379—31l, 1379—31m, 1379—31n, 1379—31o, 1379—31om, 1379—31p, 1379—31q, 1379—31r, 1379—31s, 1379—31t, 1379—31u, 1379—31v, 1379—31v (1379—31va), 1379—32a, 1379—32b (1905), 1379—32c, 1379—32d, of the statutes and to create sections 1379—10a, 1379—10b, 1379—10c, 1379—10d, 1379—10e, 1379—10f, 1379—10g, 1379—10h, 1379—10i, 1379—10j, 1379—10k, 1379—10l, 1379—10m, 1379—10n, 1379—10o, 1379—10p, 1379—10q, 1379—10r, 1379—11, 1379—12, 1379—13, 1379—14, 1379—14a, 1379—14b, 1379—15, 1379—16, 1379—17, 1379—18, 1379—18a, 1379—18b, 1379—18c, 1379—19, 1379—20, 1379—21, 1379—22, 1379—23, 1379—24, 1379—25, 1379—26, 1379—27, 1379—28, 1379—28a, 1379—29, 1379—30, 1379—31, 1379—31a, 1379—31b, 1379—31c, 1379—31d, 1379—31e, 1379—31f, 1379—31g, 1379—31i, 1379—31j, 1379—31k, 1379—31l, 1379—31m, 1379—31n, 1379—31o, 1379—31p, 1379—31q, 1379—31r, 1379—31s, 1379—31t, 1379—31u, 1379—31v and 1379—31w of the statutes, relating to drainage and drainage districts.

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

SECTION 1. Sections 1379—11, 1379—12, 1379—13, 1379—14, 1379—15, 1379—16, 1379—18, 1379—19, 1379—20, 1379—20a,