

cooperation with the states in the promotion of such system, and for other purposes.”

(2) The industrial commission of Wisconsin is hereby authorized and directed to cooperate with the United States Employment Service in the administration of said act and in carrying out all agreements made thereunder.

(3) All funds made available to this state under said act shall, upon receipt thereof, be paid into the general fund and are appropriated therefrom to the industrial commission to be expended as provided in subsection (5) of section 20.57.

(20.57) (5) FEDERAL FUNDS FOR PUBLIC EMPLOYMENT OFFICES. All moneys made available to the state and accepted by the legislature pursuant to section 101.37 are, as such moneys become available for public employment offices, to be distributed and expended as required by the act of congress making such funds available and the rules and regulations issued thereunder.

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

Approved July 6, 1933.

No. 945, A.]

[Published July 8, 1933.

CHAPTER 361.

AN ACT to repeal chapter 59, laws of 1933; to create chapter 139 and subsection (5) of section 20.05 of the statutes, relating to an emergency occupational tax on fermented malt beverages and light wines, providing penalties, and making an appropriation.

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

SECTION 1. Chapter 59, laws of 1933, is hereby repealed. Such repeal shall be effective August 1, 1933.

SECTION 2. A new chapter is added to the statutes to read:

CHAPTER 139

EMERGENCY OCCUPATIONAL TAX ON MALT BEVERAGES

139.01 TAX IMPOSED. An emergency occupational tax is assessed, imposed and levied until July 1, 1935, upon the sale, exchange, offering or exposing for sale, having in possession with

intent to sell, or removal for consumption or sale of fermented malt beverages or light wines, other than for shipment in interstate or foreign commerce or for shipment or sale by a brewer to a bottler or sales company. Such tax is levied and shall be collected at the rate of one dollar per barrel of thirty-one gallons, and at a proportionate rate for any other quantity or for fractional parts thereof.

139.02 DEFINITIONS. As used in this chapter, the terms “brewer”, “bottler”, “wholesaler”, “retailer”, “license”, “fermented malt beverages”, and “light wines” shall have the same meaning as in subsection (1) of section 66.05, and “licensed premises” shall be premises described in licenses issued by cities, villages or towns under the authority of said subsection. “Sales company” as used herein shall mean any person, firm or corporation whose place of business is located on the premises of a brewer in this state and who shall purchase from such brewer in the original package fermented malt beverages or light wines manufactured by such brewer for sale and shipment outside the state in interstate commerce.

139.03 REGISTRATION; STAMPS. Every brewer, bottler, wholesaler, or retailer liable for payment of the emergency occupational tax imposed in this chapter shall, upon making application therefor, be assigned a registration number by the state treasurer. The form of such application shall be prescribed by the state treasurer. In the case of a brewer or bottler, such registration number shall be the same as that issued under paragraph (b) of subsection (10) of section 66.05. Stamps pursuant to this section shall be sold and issued only to duly registered brewers, bottlers, wholesalers, or retailers.

(2) The emergency occupational tax imposed in section 139.01 shall be paid by the purchase of stamps from the state treasurer, of such design and denominations as shall be designated by him. Each brewer, bottler, wholesaler, or retailer shall affix at the time of sale (unless previously affixed thereto) to each barrel, keg, case, or other container in which fermented malt beverages or light wines shall be packed for sale within the state except sales by brewers to bottlers a stamp so purchased, which stamp shall be of proper denomination. Not more than one tax shall be required to be paid on any one barrel, keg, case, or other container.

(3) Such stamp shall be affixed to every barrel, keg, case or container after the same shall come to rest in this state and at

or before the time it is sold, delivered or given to any purchaser or consumer other than a bottler or sales company and before any fermented malt beverages or light wines are removed therefrom, unless such stamps shall have been affixed by the brewer or bottler. In case of sales by a brewer to a bottler or sales company within this state, it shall not be necessary for the brewer to affix stamps, but said stamps shall be affixed and cancelled by said bottler before sale or deliver to any purchaser or consumer within this state. Such stamps shall be cancelled by the person making the first sale of such fermented malt beverages or light wines within the state, except in case of a sale by a brewer to a bottler or sales company. No retailer shall sell or remove any fermented malt beverages or light wines from any barrel, keg, case or other container, unless the same shall have affixed thereto duly cancelled stamps of proper denomination. Every wholesaler or retailer shall be liable for the payment of the tax provided in this chapter on sales made for resale or consumption within this state, and shall be required to affix stamps of the proper amount on every barrel, keg, case or other container containing fermented malt beverages or light wines imported from without the state, sold, delivered or given to any purchaser or consumer within this state, unless such stamps shall have been previously affixed and cancelled by a brewer or bottler. The stamps so affixed shall be evidence of the payment of the tax. It shall not be necessary to affix stamps to individual bottles of fermented malt beverages or light wines, but no fermented malt beverages or light wines shall be sold, offered or exposed for sale, bartered, exchanged, nor shall any bottles containing the same be removed from containers for sale or consumption, except for sale by a brewer to a bottler or sales company, unless the original container in which said fermented malt beverages or light wines are packed by the brewer or bottler shall have affixed thereto stamps of proper denominations.

(4) Sales by a brewer to a sales company for shipment outside the state in interstate commerce shall not be subject to the payment of the tax or other requirements imposed by this chapter except as herein specifically provided.

(5) Every brewer, bottler, wholesaler or retailer who shall be liable for the payment of the stamp tax as herein imposed shall, at the time any fermented malt beverages or light wines are sold within the state of Wisconsin, and before any of the contents shall be removed from the barrel, keg, case or other container, affix

thereto a stamp or stamps of the proper denomination, which shall be cancelled by the person affixing the same thereto. The state treasurer shall, by regulation, prescribe the manner in which said stamps shall be affixed and cancelled.

(6) No person or corporation shall sell, give or lend any stamps, nor shall any person or corporation purchase, accept or receive, or borrow any stamps from any person or corporation, it being the intent hereof in order to prevent fraud and deception and insure the collection of said tax to limit all sales and transfers of such stamps to the state treasurer or his duly authorized representatives. The state treasurer shall not sell or issue any stamps to any person or corporation other than a brewer or bottler, who shall have been assigned a registraton number by the state treasurer, or to a licensed wholesaler or retailer selling the product of a brewer or bottler who shall have been assigned a registration number by the state treasurer.

(7) The state treasurer shall keep a suitable record of the sale of all stamps which shall show the dates of the sale thereof and the names of the purchasers. The state treasurer may refund to any purchaser the money paid for any stamps returned unfit for use or otherwise unused, and shall prescribe the method of proof required for obtaining such refund.

(8) It shall be unlawful, except as otherwise herein provided, for any person, brewer, bottler, dealer or retailer, to sell, offer for sale, have in possession with intent to sell, offer or expose for sale, barter, exchange or give away fermented malt beverages or light wines within this state, except for shipment in interstate commerce, or sale or shipment by a brewer to a bottler or sales company without having first affixed to the barrel, keg, case or other container in which same shall be placed, the stamps required by this chapter.

(9) Any person who shall falsely or fraudulently make, forge, alter or counterfeit any stamp prescribed by this chapter, or shall procure or cause to be falsely or fraudulently made, forged, altered or counterfeited any such stamp, or who shall knowingly utter, publish, pass or tender as true any false, altered, forged, or counterfeited stamp, or who shall knowingly possess any such false, altered, forged or counterfeited stamps, or shall affix the same to any barrel, keg, case or other container, or shall use any barrel, keg, cask, box, case or container upon which the stamp or stamps have been cancelled, for the purpose of placing therein for sale,

offering for sale, or having in possession with intent to sell, or selling, offering for sale, or exposing for sale, exchange or barter, any fermented malt beverages or light wines, without placing thereon stamps in the amount and of the kind and character herein provided, except for shipment in interstate commerce, or for shipment by a brewer to a bottler shall be deemed guilty of a felony and, upon conviction, shall be imprisoned in the state prison for a term of not less than one year nor more than ten years.

(10) Whenever the state treasurer or his duly authorized employes, and any sheriff, policeman, marshal, or constable, within their respective jurisdictions, shall discover any fermented malt beverages or light wines in or upon any premises other than the premises of a brewer, bottler, or sales company, upon which the tax has not been paid, said state treasurer, his employes, or any such officer of said city, village or town, may forthwith seize and take possession of said fermented malt beverages or light wines and shall, at the end of five days after such seizure, advertise such seized goods for sale for the purpose of collecting the tax thereon. Such advertisement may be had by posting a notice of the time and place of sale upon the premises where such goods are seized, or by publication in a newspaper in any newspaper having a circulation within the county wherein such seizure is made. The sale shall not be had until three days after the posting of such notice or the publication thereof. Out of the proceeds of such sale, there shall be first deducted the costs and expenses incident to said sale, and the balance, after deducting the amount of tax due thereon, (which shall be remitted to the state treasurer), shall be paid over to the state treasurer. In case such fermented malt beverages or light wines so seized, shall have deteriorated or become for any reason unfit for sale, such beverages or wines shall be destroyed in the presence of three reputable witnesses, and a report of such destruction, signed by such witnesses, shall be filed with the state treasurer.

(11) The state treasurer shall enforce and administer the provisions of this chapter and shall have authority to employ and fix the compensation of any employes necessary for the performance of his duties hereunder. Such employes shall not be subject to chapter 16 of the statutes. The state treasurer shall design, procure, furnish and sell the stamps herein provided for. He shall collect and keep a record of all taxes collected and stamps sold,

and shall issue such rules and regulations as may be necessary to carry out the provisions of this chapter.

(12) A brewer or bottler may have in and upon his premises fermented malt beverages or light wines in barrels, kegs, cases or other containers without having stamps affixed thereto, but the same shall not be removed from the premises of said brewer, bottler, or sales company except for shipment in interstate commerce or for shipment by a brewer to a bottler or sales company without such stamps being affixed thereto.

(13) A brewer may furnish to workmen employed in said brewery for consumption upon the brewery premises without charge, fermented malt beverages or light wines manufactured by said brewer without stamps being affixed to the barrel, keg, case or container from which said fermented malt beverages are drawn or removed.

(14) In case of shipments by a brewer to a bottler located within the state, of fermented malt beverages or light wines for the purpose of bottling by said bottler, the brewer shall not be required to place stamps upon any barrel, keg, case or other container in which said shipment is made, but shall securely affix thereto a label or statement, in such form as shall be prescribed by the state treasurer, reciting that the shipment is made for the purpose of bottling. Each brewer making such shipments shall file with the state treasurer monthly a report, in such form as the treasurer may prescribe, showing the dates and quantities of such shipments and the name and address of each bottler to whom made.

(15) Every brewer making sales to a sales company within this state shall file with the state treasurer a monthly report, in such form as the state treasurer shall prescribe, showing the dates and quantities of such sales and the names and address of the sales company to whom such sales were made.

139.04 ENFORCEMENT NOT TO BE RESTRAINED. No suit shall be maintained in any court to restrain or delay the collection or payment of the tax levied in this chapter. The aggrieved taxpayer shall pay the tax as and when due, and, if paid under protest, may at any time within ninety days from the date of such payment, sue the state in an action at law to recover the tax so paid. If it is finally determined that said tax, or any part thereof, was wrongfully collected for any reason, it shall be the duty of the secretary of state to issue a warrant on the state treasurer for the amount

of such tax so adjudged to have been wrongfully collected, and the treasurer shall pay the same out of the general fund. A separate suit need not be filed for each separate payment made by any taxpayer, but a recovery may be had in one suit for as many payments as may have been made.

139.05 PRESUMPTIONS FROM POSSESSION. The possession of any fermented malt beverages or light wines on any licensed premises, other than upon the premises of a brewer, bottler or sales company, 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 beverages, and that such products are subject to the tax herein imposed.

139.06 INSPECTION FOR ENFORCEMENT. The state treasurer or his duly authorized employes, and any sheriff, policeman, marshal, or constable, within their respective jurisdictions, may at all reasonable hours enter in and upon any licensed premises, and examine the books, papers and records of any brewer, bottler, sales company, wholesaler, or retailer, for the purpose of inspecting the same and determining whether the tax imposed by this chapter has been fully paid, and shall have power to inspect and examine, according to law, any premises where fermented malt beverages or light wines are manufactured, sold, exposed for sale, possessed or stored, for the purpose of inspecting the same and determining whether the tax imposed by this chapter has been fully paid, and shall have power to inspect and examine, according to law, any premises where fermented malt beverages or light wines are manufactured, sold, exposed for sale, possessed or stored, for the purpose of determining whether the provisions of this chapter are being complied with. Any refusal to permit such examination of such premises shall constitute sufficient reason for the refusal of the state treasurer to furnish to such person so refusing any stamps. Such refusal shall automatically operate as a revocation of any license or permit granted for the sale of any fermented malt beverages or light wines and in addition shall be deemed a misdemeanor, punishable as provided in section 139.10.

139.07 COMPULSORY TESTIMONY. Any person may be compelled to testify in regard to any violation of this chapter of which he may have knowledge, even though such testimony may tend to incriminate him, upon being granted immunity from prosecution in connection therewith, and upon the giving of such testimony,

such person shall not be prosecuted for or because of the violation relative to which he has testified.

139.08 PENALTIES. Any person who shall violate any of the provisions of this chapter for which specific penalty is not herein provided shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine of not more than five hundred dollars, or by imprisonment in the county jail for not more than ninety days, or by both such fine and imprisonment, and any license issued to him shall be subject to revocation. In the event that any such person shall be convicted of a second offense, such offender, in addition to the penalties herein provided, shall forthwith forfeit the right to purchase any stamps from the state treasurer, and any license which may have been issued to him by any city, village or town shall without notice be forthwith forfeited.

139.09 EXEMPTION. The provisions of this chapter shall not apply to the manufacture or sale of any beverage containing less than one-half of one per centum of alcohol by volume.

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

SECTION 3. A new subsection is added to section 20.05 of the statutes to read: (20.05) (5) FERMENTED MALT BEVERAGE TAX. On July 1, 1933, and annually thereafter a sum sufficient for the collection of the emergency occupational taxes on malt beverages and light wines imposed in chapter 59, laws of 1933, and chapter 139 of the statutes, and for the performance of all duties of the state treasurer under said chapters.

SECTION 4. It is the intent of this act that the provisions of chapter 59, laws of 1933, shall apply to all fermented malt beverages sold prior to August 1, 1933. No stamps as provided in this act shall be required to be affixed to barrels, kegs, cases or other containers of fermented malt beverages or light wines prior to that date, but, beginning August 1, 1933, no fermented malt beverages or light wines shall be sold, offered or exposed for sale, kept in possession with intent to sell, except upon the premises of a brewer or bottler, or removed for consumption or sale, other than for shipment in interstate commerce, beyond the borders of the state

of Wisconsin, or for shipment or sale by a brewer to a bottler or sales company, unless the proper stamps shall be affixed to each barrel, keg, case or other container in which such fermented malt beverages or light wines shall be packed.

SECTION 5. This act shall take effect upon passage and publication.

Approved July 7, 1933.

No 914, A.]

[Published July 8, 1933.

CHAPTER 362.

AN ACT to amend the introductory paragraph of section 20.53, subsection (8) of section 215.33, subsection (4) of section 220.04, subsection (6) of section 220.05, paragraph (b) of subsection (16) and subsections (17) and (20) of section 220.07, subsections (7) and (15a) of section 220.08, subsection (4) of section 220.20, and the introductory paragraph of subsection (1) of section 221.255, and to create subsection (4) of section 215.36, subsection (5) of section 220.04, paragraph (c) of subsection (16) of section 220.07 and subsection (3m) of section 220.08 of the statutes, relating to the banking department, regulation of banks, and making an appropriation.

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

SECTION 1. The introductory paragraph of section 20.53 (amended by chapter 15, laws of special session 1931-1932), subsection (8) of section 215.33, subsection (4) of section 220.04 (amended by chapter 6, laws of 1933), subsection (6) of section 220.05 (amended by chapter 10, laws of special session 1931-1932), paragraph (b) of subsection (16) (created by chapter 6, laws of 1933) and subsections (17) (amended by chapter 6, laws of 1933) and (20) (created by chapter 17, laws of 1933) of section 220.07, subsections (7) and (15a) of section 220.08, subsection (4) of section 220.20 (created by chapter 30, laws of 1933) and the introductory paragraph of subsection (1) of section 221.255 of the statutes are amended to read: (20.53) (Introductory paragraph, as amended in chapter 15, laws special session 1931) There is appropriated from the general fund to the state banking department for the execution of its functions, * * * annually, * * * one hundred and eighty-five thousand dollars *and in addition thereto all receipts under subsections*