

nish free of charge or permit the giving away or furnishing free of charge any fermented malt beverage or intoxicating liquor on his restaurant premises.

(2) Any person violating any of the provisions of this section shall be punished by a fine of not less than five nor more than twenty-five dollars.

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

Approved February 1, 1934.

No. 23, A.]

[Published February 2, 1934.

CHAPTER 12.

AN ACT to create section 221.046 of the statutes, authorizing banks to issue and sell their capital notes or debentures with the approval of the state banking department.

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

SECTION 1. A new section is added to the statutes to read: 221.046 BANKS MAY ISSUE AND SELL CAPITAL NOTES OR DEBENTURES; APPROVAL OF STATE BANKING DEPARTMENT. Any state bank, mutual savings bank, or trust company bank, may by the action of its board of directors issue and sell its capital notes or debentures of one or more classes in such amount, in such form, with such maturity and conferring such rights and privileges upon the holders thereof as the said board shall determine; provided, however, that no such issuance or sale shall be made unless the same shall be approved by the banking commission and the banking review board.

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

Approved February 1, 1934.

No. 12, S.]

[Published February 3, 1934.

CHAPTER 13.

AN ACT to create chapter 176 and section 20.165 of the statutes, relating to the manufacture and sale of intoxicating liquors, making an appropriation, and providing penalties.

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

SECTION 1. A new chapter is added to the statutes to read:

CHAPTER 176

INTOXICATING LIQUORS

176.01 DEFINITIONS. As used in this chapter, or in any regulation made pursuant thereto, unless the context or subject matter otherwise requires:

(2) "Intoxicating liquors" means all ardent, spirituous, distilled, or vinous liquors, liquids, or compounds, whether medicated, proprietary, patented, or not, and by whatever name called, containing one-half of one per cent or more of alcohol by volume, which are fit for use for beverage purposes, but shall not include "fermented malt beverages" as defined in subsection (10) of section 66.05, which contain less than five per centum of alcohol by weight.

(3) The term "peace officer" includes sheriffs, under-sheriffs, deputy sheriffs, police officers, constables, marshals, and deputy marshals, and any duly authorized employe of the state treasurer employed pursuant to chapter 139 of the statutes.

(4) The term "sell" or "sold" or "sale" includes the transfer, gift, barter, trade, or exchange, or any shift, device, scheme, or transaction whatever whereby intoxicating liquors may be obtained.

(5) The term "magistrate" includes the judges of the several courts of record and judges of any municipal court in vacation as well as term time, court commissioners, police justices, and all justices of the peace.

(6) "Restaurant" means space, in and wholly within a suitable building, leased or rented or owned by a person or corporation, licensed as such, and provided with adequate and sanitary kitchen and dining room equipment and capacity and employing such number and kinds of servants and employes necessary for preparing, cooking, and serving suitable food for strangers, travelers, and other patrons and customers, and complying with all the requirements imposed upon restaurants under the laws of this state.

(7) "Hotel" means a building owned or leased and operated by a person holding a duly issued and valid license as an inn-keeper, provided with adequate and sanitary kitchen and dining room

equipment and capacity, and employing such number and kinds of servants and employes for preparing, cooking, and serving suitable food for its guests, including travelers and strangers and its other patrons and customers, as necessary to meet and comply with all the requirements imposed upon innkeepers under the laws of this state.

(8) "Club" shall mean an organization, whether incorporated or not, which is the owner, lessee, or occupant of a building used exclusively for club purposes, and which is operated solely for a recreational, fraternal, social, patriotic, political, benevolent, or athletic purpose but not for pecuniary gain; except that where such club is located in an office or business building it may be licensed as such provided it otherwise qualifies as a "club" within the meaning of this subsection. The trafficking in intoxicating liquors shall be incidental only and shall not be the object of its existence or operation. A club making application for a license shall have occupied the premises upon which it is then located for a period of six months prior to the date of filing such application.

(9) A "manufacturer" is a person, firm, or corporation, other than a rectifier, that manufactures or distills intoxicating liquors, including selling at wholesale such intoxicating liquors manufactured or distilled by the licensee at the premises designated in the license.

(10) A "rectifier" is a person, firm, or corporation that rectifies, purifies, or refines distilled spirits or wines by any process other than by original and continuous distillation from mash, wort, or wash, through continuous closed vessels or pipes, until the manufacture thereof is complete, or who has in his possession any still or leach tub or keeps any other apparatus for the purpose of refining in any manner distilled spirits or other liquors, or who after rectifying and purifying distilled spirits, shall, by mixing such spirits or liquors with any materials, manufacture any spurious, imitation, or compound liquors for sale, and any person who, without rectifying, purifying, or refining distilled spirits shall, by mixing such spirits with any materials, manufacture any spurious, imitation, or compound liquors for sale under the name of "whiskey", "brandy", "gin", "rum", "spirits", "cordials", or any other name, and who is also a distiller or is under substantially the same management or control as a distiller. A rectifier may sell at wholesale intoxicating liquors rectified by him without any other license than that of a rectifier.

(11) A “wholesaler” is any person, firm, or corporation, other than a manufacturer or rectifier, that sells intoxicating liquors to retailers or others for the purpose of re-sale.

(12) A “retailer” is any person, firm, or corporation that sells, exchanges, offers, or exposes for sale or exchange, or has in possession with intent to sell or exchange to consumers, any intoxicating liquors.

176.04 SALE WITHOUT LICENSE; PENALTY. (1) Any person who shall, without a license or permit, vend, sell, deal, or traffic in, or, for the purpose of evading any law of this state, give away any intoxicating liquors in any quantity whatever, shall be guilty of a misdemeanor and be punished by a fine of not less than twenty-five dollars nor more than two hundred dollars, besides the costs; or, in lieu of such fine, by imprisonment in the county jail or house of correction not to exceed one year nor less than three months, and in case of punishment by fine unless the fine and costs be paid forthwith be committed to the county jail or house of correction until they are paid or until discharged by due course of law; and in case of a second or subsequent conviction of the same person during any year the punishment shall be both by fine and imprisonment.

(2) The existence of the issue of any permit or special tax stamp from the United States government, authorizing or permitting any person to engage in the occupation of selling intoxicating liquors at the time and place of any alleged violation of the provisions of this chapter, or the ordinances of any city or other municipality, shall be accepted as prima facie evidence that such person is vending, selling, dealing, or trafficking in liquor.

(3) No license shall be required for the use of intoxicating liquor in hospitals or in bona fide institutions for the aged and infirm where such liquor is used for medicinal, mechanical, or scientific purposes only, or for one licensed to practice surgery or medicine in using alcohol in any form in the bona fide treatment of the sick or in using or prescribing such alcohol for such bona fide treatment.

176.05 LIQUOR LICENSES. (1) AUTHORITY TO GRANT LICENSES. Each town board, village board, and common council may grant retail licenses, under the conditions and restrictions in this chapter contained, to such persons entitled to a license under this chapter as they deem proper to keep places within their re-

spective towns, villages, or cities for the sale of intoxicating liquors. No member of any such town board, village board or common council shall sell directly or indirectly or offer for sale, to any person, firm, or corporation that holds or applies for any such license any bond, material, product, or other matter or thing that may be used by any such licensee or prospective licensee in the carrying on of his or its said business.

(1a) No manufacturer, wholesaler or rectifier shall sell any intoxicating liquor within the state without first obtaining a permit from the state treasurer. The application for such permit and the permit shall be in such form as the state treasurer shall prescribe. Each permit shall expire on July 1st of each year. The annual fee for such permits shall be two hundred and fifty dollars which shall be paid into the state treasury and credited to the general fund. If any manufacturer, wholesaler, or rectifier violates any of the provisions of this chapter, in addition to other penalties provided in this chapter, the court may suspend or revoke such permit for such period of time as it may determine. The court shall forthwith send a copy of its order of suspension or revocation to the state treasurer who shall suspend or revoke the permit in accordance with said order.

(1b) The restrictions and limitations imposed in paragraphs (3), (9), and (13) of this section shall apply to manufacturers and rectifiers and the permits issued by the state treasurer.

(1c) A permit issued to a manufacturer, rectifier, or wholesaler shall entitle the holder of such permit to sell, deal, or traffic in such liquors at wholesale in quantities of not less than one wine gallon at any one time, no part of which shall be sold for consumption upon the premises of the permittee.

(2) KINDS OF LICENSES. Licenses to sell, deal, or traffic in intoxicating liquors shall be designated either "Retail Class A" or "Retail Class B". A retail license "Class A" shall permit its holder to sell, deal and traffic in intoxicating liquors only in original packages or containers, in quantities of not more than one wine gallon at any one time, and to be consumed off the premises so licensed. A retail license "Class B" shall permit its holder to sell, deal and traffic in intoxicating liquors to be consumed on the premises so licensed by the glass only, and not in the original package or container.

(3) LIMITATION TO SAME PERSON. Not more than two retail "Class A" or "Class B" licenses shall be issued in the

state to any one corporation or person, except in case of hotels or clubs, and in each application for a retail "Class A" or "Class B" license the applicant shall state that he has not made application for more than one other retail "Class A" or "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. A retail "Class A" and "Class B" license shall not both be issued for the same premises or connecting premises except in the case of hotels as defined in paragraph (e) of subsection (2) of section 176.20.

(4) LICENSE FEES. The sum to be paid for such license shall be at all times the same for each class of licenses and shall be in such amount as the governing body of the town, city, or village issuing the same may determine, except that the minimum fee shall be fifty dollars and the maximum fee shall be five hundred dollars in any town, village, or city.

(5) FORM; DURATION. The application for a license to sell or deal in intoxicating liquor and "fermented malt beverages" as defined in subsection (10) of section 66.05 shall be in writing on a form furnished by the state treasurer and sworn to by the applicant. The application shall state the kind of license applied for, designate the premises where such liquor is to be sold and such other information as required by this chapter. Such form shall be prepared by the state treasurer and shall be suitable for the entire state and so worded as to make clear to any licensing authority the past history of the applicant and fitness for license under this act. The state treasurer shall furnish on request such form blanks as may be necessary to each licensing body. Except as provided in subsection (6), all such licenses shall remain in force until the first day of July next after the granting thereof, unless sooner revoked; they shall be attested by the town, city, or village clerk, and shall not be delivered until the applicant shall produce and file with the clerk a receipt showing the payment of the sum required therefor to the proper treasurer, and until the filing with the clerk of the bond provided for in section 176.10. If any licensee shall die during any license year the administrator of such deceased licensee may continue or sell said business, and, if he sells the same, may assign or transfer such license and all rights and privileges of the licensee thereunder if the transferee or assignee is acceptable to the licensing authorities, and secures their consent thereto, and fully complies with the requirements of law

applicable to original applicants, and executes and delivers a satisfactory bond. No license shall be issued to any person in violation of any provision of this chapter, and any license so issued shall be null and void. The town, village or city clerk shall keep all applications for license and they may be inspected by any citizen.

(6) SEMI-ANNUAL LICENSES. Licenses may be granted which shall expire on the thirtieth day of June, 1934, upon payment of such proportion of the annual license fee as the number of months or fraction of a month remaining until June 30, 1934, bears to twelve. Licenses may also be issued at any time for a period of six months in any calendar year for which one-half of the annual license fee shall be paid. Such six months' licenses shall not be renewable during the calendar year in which issued.

(6a) "CLASS B" LICENSE SUBJECT TO RULES ON SANITATION. The rules and regulations made by the state board of health governing sanitation in restaurants shall apply to all "Class B" licenses issued under this section. No "Class B" license shall be issued unless the premises to be licensed conform to such rules and regulations.

(7) NO LICENSE ON RAILROADS. No license shall be required for the sale of intoxicating liquor upon any dining, buffet, or cafe car operated upon any railroad, but such liquor shall be sold and furnished only to bona fide passengers or other persons actually being transported, and shall be consumed only in such dining, buffet, or cafe car while in transit.

(8) ANNUAL LICENSE MEETINGS. All town and village boards and common councils, or the duly authorized committees of such councils, shall meet and be in session on the third Monday of each June, and from day to day thereafter, so long as it may be necessary, for the purpose of acting upon such applications for license as may be presented to them.

(9) WHERE AND TO WHOM LICENSES NOT GRANTED. No license or permit shall be granted to any person or persons for the sale of any such intoxicating liquors, who is not of good moral character and a full citizen of the United States and of this state and who has not resided in this state continuously for at least one year prior to the date of filing the application; nor shall any such license be granted or issued to any person who has habitually been a petty law offender, or has been convicted of an offense against the laws of this state punishable by imprisonment in the state prison, unless the person so committed has been duly

pardoned. The provisions of this subsection shall not apply to a Wisconsin corporation; such provisions apply, however, to all officers and directors of any such corporation.

(10) RESTRICTIONS ON RETAIL "CLASS B" LICENSES. (a) Intoxicating liquor shall be sold in restaurants only at tables and to seated customers.

(b) No retail "Class B" license shall be issued to any person who does not have, or to whom is not issued, a "Class B" retailer's license to sell fermented malt beverages under subsection (10) of section 66.05.

(11) RESTRICTIONS ON PREMISES UNDER RETAIL "CLASS A" OR "CLASS B" LICENSES. There shall be upon premises operated under a retail "Class A" or "Class B" liquor license, at all times, the licensee or some person who shall have an operator's license under subsection (10) of section 66.05 and who shall be responsible for the acts of all persons serving as waiters, or in any other manner, any fermented malt beverages or intoxicating liquor to customers. No person other than the licensee shall serve fermented malt beverages or intoxicating liquor in any place operated under a retail "Class A" or "Class B" liquor license unless he shall possess such 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.

(13) LICENSES TO CORPORATIONS; APPOINTMENT OF AGENTS. No corporation, organized under the laws of this state or of any other state or foreign country, shall be given a license to sell in any manner any intoxicating liquor unless such corporation shall have first appointed, in such manner as the state treasurer shall by regulation prescribe, as agent, a citizen of the United States and shall have vested in him by properly authorized and executed written delegation full authority and control of the premises, described in the license of such corporation, and of the conduct of all business therein relative to intoxicating liquors as the licensee itself could in any way have and exercise if it were a natural person resident in the state, nor unless such agent is, with respect to his character, record, and reputation, satisfactory to the state treasurer.

176.06 CLOSING HOURS. No premises for which a wholesale or retail liquor license has been issued shall be permitted to remain open for the sale of liquor:

(1) If a wholesale license, between 5 P. M. and 8 A. M. except on Saturday when the closing hour shall be 9 P. M.

(2) If a retail "Class A" license, between 9 P. M. and 8 A. M.

(3) If a retail "Class B" license, between 1 A. M. and 8 A. M.

(4) On any election day as provided in section 176.34.

(5) Hotels and restaurants whose principal business is the furnishing of food and/or lodging to patrons shall be permitted to remain open for the conduct of their regular business but shall not be permitted to sell intoxicating liquors during the hours mentioned in subsections (3) and (4) of this section.

176.07 BLINDS PROHIBITED WHEN PREMISES CLOSED. No premises licensed for the sale of intoxicating liquor at retail shall, during the days they are required to close or during the hours in which the sale of liquor is prohibited, obstruct by the use of curtains, blinds, screens or in any other manner, a full and complete view of the interior from the outside. During the hours in which the sale of intoxicating liquor is permitted the premises shall be properly and adequately lighted.

176.08 MUNICIPAL LIQUOR STORES MAY BE ESTABLISHED UNDER LOCAL OPTION. Any town, village, or city may, by majority vote of the electors voting thereon, establish, maintain, and operate one or more stores therein for the sale, dealing, or trafficking in of intoxicating liquor only in original packages or containers, in quantities of not more than one wine gallon at any one time, and to be consumed off the store premises. Such stores shall be maintained and operated under the management or control of the local governing body.

176.09 APPLICATION; PUBLICATION; FEE. (1) All applications for licenses to sell intoxicating liquors shall be filed with the clerk of the town, village, or city in which such premises are situated at least fifteen days prior to the granting of any such license; and the same shall, prior to the granting of such license, be published in a daily paper printed in such town, city, or village at least three times successively, and where there is no such daily paper published, at least once in a weekly paper published in such town, city, or village. Such publication shall include the name and address of the applicant, the kind of license applied for, and the location of the premises to be licensed.

(2) No publication of such applications shall be made in any newspaper, unless such newspaper making such publication shall have been regularly and continuously published daily or weekly,

as the case may be, in such town, village, or city for a period of at least two years before the date of publication of such applications. If there be no paper published in the town, village, or city in which the premises are situated, then in the paper having the most circulation in such town, village or city, as the local authorities may determine.

(3) At the time of filing such application the applicant shall pay to the town, village, or city clerk such a sum as, computed by the rate per folio for legal notices or publications as created, established, and applied in the counties of this state by the statutes of Wisconsin, would be required to pay for such publication.

176.10 BOND. (1) Every applicant for license under section 176.05, shall, before delivery of the license, file with such town, village, or city clerk a bond to the state in the sum of one thousand dollars, executed by a surety company licensed to do business in the state of Wisconsin, or by a cash bond in an amount to be determined by the licensing authorities but not less than two hundred dollars, or in lieu of either of such bonds any security named in subsection (7) of section 66.04, all to be approved by the authorities granting the license, conditioned that the applicant, during the continuance of his license, will not violate any provision of this chapter, will keep and maintain an orderly and well-regulated house; that he will not sell or give away any intoxicating liquor to any minor, having good reason to believe him to be such, or to persons intoxicated or bordering upon intoxication or to habitual drunkards; and that he will pay all damages that may be recovered by any person pursuant to section 176.35, and that he will observe and obey all orders of such supervisors, trustees, or aldermen, or any of them, made pursuant to law. In lieu of said surety bond required by this section, the applicant may furnish a personal bond with at least two sureties, to be approved by the authorities granting the license, who shall each justify in double its amount over and above their debts and liabilities and exemptions, and be freeholders and residents of the county, but no person shall act as surety on more than one bond.

(3) In case of the breach of the condition of any such bond an action may be brought thereon in the name of the state of Wisconsin, and judgment shall be entered against the principals and sureties therein named for the full penalty thereof; and execution may issue thereupon by order of the court therefor to satisfy any judgment that may have been recovered against the principal

named in said bond by reason of any breach in the conditions thereof or for any penalties or forfeitures incurred under this chapter.

(4) If more than one judgment shall have been recovered the court, in its discretion, may apply the proceeds of said bond towards the satisfaction of said several judgments in whole or in part in such manner as it may see fit.

176.11 REVOCATION OF LICENSE BY LOCAL AUTHORITIES. Upon complaint made in writing under oath by any resident in, and filing with the clerk of, any town, village, or city that any such licensed person therein has violated any provision of this chapter or keeps or maintains a disorderly or riotous, indecent or improper house, or that he has sold or given away any intoxicating liquor to any minor without the written order of his parents or guardians, or to persons intoxicated or bordering upon intoxication, or to known habitual drunkards, or that he has not observed and obeyed any order of such supervisors, trustees, aldermen, or county superintendent of the poor, or any of them, made pursuant to law, the proper town board, village board, or common council shall issue a summons, to be signed by the clerk, directed to any peace officer or constable therein, commanding the person so complained of to appear before them on a day and at a place in such summons named, not less than three nor more than ten days from its date, and show cause why his license should not be revoked. Such summons shall be served at least three days before the time at which such person is commanded to appear, and may be served either personally or upon the person in charge of the place to which such license relates.

176.12 PROCEDURE ON HEARING; EFFECT OF REVOCATION. If such person shall not appear as required by the summons the complaint shall be taken as true; and if the board shall deem its allegation sufficient the license shall be revoked, and notice thereof shall be given to the person whose license is so revoked; but if such person shall appear and deny the complaint each party may produce witnesses and be heard by counsel. If upon such hearing the board shall find the complaint to be true the license shall be revoked, and if untrue the proceeding shall be dismissed without costs to the accused, and if the complaint be found by the board to be malicious and without probable cause the costs shall be paid by the complainant, and the board may require security therefor before issuing the summons as aforesaid. When a license is re-

voked it shall be so entered of record by the clerk, and no other license shall be granted to such person within twelve months of the date of its revocation nor shall any part of the money paid for any license so revoked be refunded.

176.17 RESTRICTIONS ON MANUFACTURERS, RECTIFIERS AND WHOLESALERS. (1) No manufacturer, rectifier or wholesaler shall hold the ownership, directly or indirectly, of any interest in any license to sell products of the industry for consumption on the premises covered by such license.

(2) No manufacturer, rectifier or wholesaler shall furnish, give, or lend any money or other thing of value, directly or indirectly, or through a subsidiary or affiliate, or by any officer, director, or firm member of the industry, to any person engaged in selling products of the industry for consumption on the premises where sold, or to any person for the use, benefit, or relief of said person engaged in selling as above; or to guarantee the repayment of any loan or the fulfillment of any financial obligation of any person engaged in selling as above. Nothing herein contained shall affect the extension of usual and ordinary commercial credits for the products of the industry sold and delivered. No person licensed to sell intoxicating liquors for consumption on the premises where sold shall receive, or be the beneficiary of, any of the benefits hereby prohibited.

(3) No manufacturer, rectifier or wholesaler shall furnish, give, rent, lend, or sell any equipment, fixtures, or supplies, directly or indirectly, or through a subsidiary or affiliate, or by any officer, director, or firm member of the industry, to any person engaged in selling products of the industry for consumption on the premises where sold. No person licensed to sell products of the industry shall receive, or be the beneficiary of, any of the benefits hereby prohibited.

(4) No manufacturer, rectifier or wholesaler shall furnish, give, lend, or rent any interior decorations other than signs, or furnish, give, lend, or rent any sign or signs, for inside or outside use, costing collectively more than twenty-five dollars in any one calendar year, to any person licensed to sell intoxicating liquors for consumption on the premises where sold, either directly or indirectly, or through a subsidiary or affiliate, or by any officer, director, or firm member of any such manufacturer, rectifier or wholesaler. No person licensed to sell products of the industry shall receive, or be the beneficiary of, any of the benefits hereby prohibited.

(5) No manufacturer, rectifier or wholesaler shall hold any interest in any premises hereafter acquired in which intoxicating liquors are sold at retail for consumption on the premises where sold.

(6) The violation of any provision of this section by any manufacturer, rectifier, wholesaler, retailer, or other licensee shall be sufficient cause for the revocation of the license, of the manufacturer, rectifier or wholesaler if such license shall be required, or of the licensee receiving the benefit from the prohibited act as herein provided.

176.18 PHARMACIST'S PERMIT; FEE; CONDITIONS. (1) In any town, village, or city the governing body may, upon written application therefor, grant to any registered pharmacist, as such governing body may deem proper, a permit to sell within such town, village, or city, intoxicating liquors in quantities less than one gallon for medicinal, mechanical, or scientific purposes only and not to be drunk on the premises. The sum to be paid for such permit shall be not less than ten dollars as determined by the local governing body, and it shall be granted and issued in the manner and terminate at the same time as the license provided for in section 176.05; but it shall not be necessary for any such pharmacist to furnish the bond required by section 176.10.

(2) In any town, village, or city no sale for either medicinal, mechanical, or scientific purposes shall be made by any such pharmacist until the person purchasing the same shall for each sale make and file a certificate in writing, dated and subscribed by him and witnessed by such registered pharmacist, stating for what purpose the intoxicating liquor so desired is to be used and that it is not for a beverage; and also stating in case of a sale for medicinal purposes on a physician's prescription its date and number and the name of the physician issuing the same.

(3) Such certificate and prescription shall be filed and preserved with the book hereinafter mentioned, be considered a public record at all times open to inspection by any member of the town or village board or council, or any peace officer, and be produced in court; and at the end of each month all such certificates and prescriptions received by him shall be filed with the town, village, or city clerk.

(5) It shall be the duty of every pharmacist to keep a book in which he shall enter the date, kind, and quantity of every sale of any such intoxicating liquor made by him, the name of the person

to whom it was sold, and the purpose for which the sale was made. Every such pharmacist shall on the third Tuesday in April of each year file with the clerk of the town, village, or city in which he does business a verified copy of all the entries in such book.

(6) Any person who shall make any false certificate, statement, or representation to any physician to secure a prescription for such intoxicating liquor, or to a registered pharmacist, or to any of his clerks and employes, for the purpose of inducing either of them to sell any intoxicating liquor for use for any other than medicinal, mechanical, or scientific purposes, and shall thereby secure such prescription and a sale thereof to be made in violation of law, and any such pharmacist who shall refuse or neglect to comply with any of the requirements of this section, shall be punished by a fine of not less than forty dollars nor more than two hundred dollars, besides the cost of suit, or by imprisonment in the county jail or house of correction not less than thirty days nor more than eight months.

(7) If any pharmacist shall be convicted of violating any of the provisions of this chapter, the court in rendering judgment for such conviction may make an order cancelling and annulling defendant's permit and also his certificate as a registered pharmacist, if any, or the permit and such certificate of the person, firm, or corporation, or any member thereof, for whom he is acting or by whom he is employed, if such offense be committed with his or their knowledge or consent; and may also direct the abatement and closing of his or their place of business as a nuisance for not less than three months nor more than one year; and in case of a second or any subsequent conviction within one year after any other conviction the court shall make such orders, and during such time no permit or certificate shall be issued to the defendant, or the person, firm, or corporation whose permit or certificate was cancelled, or to any other person, firm, or corporation for carrying on such business at such place.

176.19 MEDICAL PRESCRIPTION LIMITED; PENALTY. (1) It shall be unlawful for any physician or surgeon to prescribe intoxicating liquors for any person when unnecessary for the health of such person, or to prescribe a greater quantity of such liquor than proper for the ailment or disease of such person, with intent to evade or assist in evading any of the provisions of this chapter. Nothing in this chapter shall be construed as prohibiting any hospital or one licensed to practice medicine or surgery from having

and using alcohol, in any form, in the bona fide treatment of the sick, nor as requiring either to have a permit or license to have, use, or prescribe the same for such bona fide treatment.

(2) Any physician or surgeon violating any of the provisions of this section shall be punished by a fine of not less than ten dollars nor more than one hundred dollars, or by imprisonment in the county jail or house of correction not more than six months; and conviction for a second offense within any one year shall be ground for revocation of such defendant's license to practice medicine and surgery in this state.

176.20 RESIDENCE DISTRICTS; ELECTORAL POPULATION; INCLUDED AND EXCLUDED TERRITORY. (1) Any clearly described, contiguous, compact territory in cities, villages, or towns bounded by corporation or ward lines, public streets, public alleys, or water-courses, in which actually reside not less than one hundred nor more than seven hundred and fifty qualified electors may be constituted a residence district. Its greatest length shall not be more than four times its narrowest width. No part of any one district once used to determine one residence district, and no territory which in any other manner shall have been constituted a no-license area, while continued as such, shall be used in fixing another residence district.

(2) Except as provided in section 176.20, the no-license area of a residence district shall not include:

(a) The frontage of that side of any street between intersecting streets in any city or incorporated village upon which one-third of the lineal feet of the property abutting thereon is devoted to or used for commercial, mercantile, manufacturing, or any other business purpose.

(b) The street frontage of either side of such street if one-third of the lineal feet of property abutting on both sides thereof between intersecting streets is so used.

(c) The frontage of either or both sides of a highway in towns or unincorporated villages within a distance of four hundred feet if one-third of the lineal feet of the property abutting upon said highway in such distance is so used.

(d) Territory, while continued as such, which in any manner shall have been constituted a no-license area.

(e) Actual and bona fide hotels maintaining in cities of the first class fifty or more sleeping rooms for the accommodation of transient guests; in cities of the second class, twenty-five or more

such rooms; in cities of the third class, eighteen or more such rooms; and in cities of the fourth class, ten or more such rooms.

(3) Property occupied exclusively for educational, religious, or charitable purposes and public parks in residence districts may be included in residence districts as residence property, but shall not be used in determining the boundaries or size of any such district.

176.21 REMONSTRANCES AGAINST LICENSE IN NO-LICENSE DISTRICTS. (1) Any compact, contiguous territory in any town, village, or city in this state, wherein no license to sell, deal, or traffic in intoxicating liquors has been issued or granted prior to the filing of the remonstrance hereinafter referred to, and containing not less than one hundred nor more than seven hundred and fifty resident electors, which district is bounded by corporation or ward lines, public streets, or public alleys, and the greatest length of which shall not be more than four times its narrowest width, may be constituted a residence district if a majority of the resident electors therein shall on or before May first in any year file with the town, village, or city clerk a remonstrance in writing describing the boundaries of such district and signed by said electors together with their residence address. Except as provided in subsection (2), no such license shall be granted or issued in any such district after the filing of such remonstrance unless a majority of the electors in such district shall thereafter consent thereto in writing, specifying the location in such district from which such license may be issued or granted. The provision of section 176.23 shall apply to the remonstrance or consent herein provided for.

(2) The provisions of subsection (1) shall not apply to actual and bona fide hotels specified in paragraph (e) of subsection (2) of section 176.20.

176.22 REMONSTRANCES AND COUNTER PETITIONS IN LICENSE DISTRICTS. No license shall be issued or granted to any person to sell or traffic in any intoxicating liquors within any residence district as defined in section 176.20 if a majority of the qualified electors residing in such district shall, not earlier than the first day of May nor later than the fifteenth day of May in any year, present to and file with the clerk of any such city, village, or town in which such residence district is situated, a remonstrance in writing, signed by a majority of said electors, as hereinafter provided, and describing the boundaries of said residence district objecting to the granting of any such license or permit within said district, until a

counter petition signed by a majority of said electors in such district praying that such license may be granted in said district shall be filed with such clerk, when it shall be lawful for the proper authorities to issue license in said district.

176.23 SIGNATURE GATHERERS; ELECTORAL POPULATION; WHO MAY SIGN. (1) The electors signing such remonstrance or counter petition shall subscribe their names thereto together with their residence, including street or lot and block number, if any, in cities and villages, and quarter-section number in towns, before some person who shall make oath that the persons so signing the same are qualified electors of said residence district and that such names and that their residence and street number or lot and block number if any, or quarter-section number, are the genuine signatures and addresses of the persons so purporting to subscribe said remonstrance or said counter petition, as the case may be. No elector shall sign more than one remonstrance or counter petition affecting the district in which he resides. Such remonstrance or counter petition may be in parts and such signatures may be obtained by any number of persons, provided the person obtaining the names thereto is a resident of such district and makes oath to the signatures obtained by him.

(2) If a registration of voters be required in any territory included in a residence district as herein provided for, the number of names which appear in the last registration had in any such territory and residing in such district shall determine the number of electors residing therein. And only such electors can sign the remonstrance, counter petition, or consent provided for in this act. If there be no registration of voters, then the last enumeration of the number of electors therein made pursuant to law may be used to determine the number of electors therein at the time of filing such remonstrance, counter petition, or consent.

176.24 NOTICE OF INTENTION TO SECURE SIGNATURES. At least five days before beginning to secure signatures to the remonstrance or counter petition provided for in section 176.22, notice of intention so to do, describing the boundaries of such proposed residence district, shall be published at least once in some newspaper printed in such city or village, if any, and if the district be in a town, in some newspaper published in the county, or at least three copies of such notice posted for five days in at least three conspicuous public places within said district declaring the intention to procure and file such remonstrance or counter petition.

The giving of the notice and making and filing proof thereof shall be a condition precedent to the right to file such remonstrance or counter petition.

176.25 REVIEW OF PETITIONS. Within ten days after the filing of said remonstrance or counter petition the proper authorities of any such city, village, or town who may be authorized to issue licenses for the sale of intoxicating liquors shall give notice in some newspaper, or by posting in three public places in said district, of a day, to be fixed by them, that they will take up and consider and examine said remonstrance or counter petition, as the case may be, and any persons objecting to the sufficiency of said remonstrance or counter petition, or either thereof, may appear before such authorities and make and file their objections thereto, and said authorities shall consider the same, and if they determine that either said remonstrance or counter petition is materially defective in any manner they shall point out such defects and permit the party so filing said remonstrance or counter petition to correct the same and supply defects, if any, within fifteen days from the date thereof, and if such remonstrance or counter petition shall be perfected within such time, no license shall issue, or a license may be issued, as the case may be, but if such remonstrance or counter petition be not perfected within such time, such proper authorities may exercise their discretion in respect to the issuing or granting of a license in said territory.

176.26 LIQUOR; SALE FORBIDDEN; TO WHOM. (1) When any person shall, by excessive drinking of intoxicating liquors, mispend, waste, or lessen his estate so as to expose himself or family to want, or the town, city, village, or county to which he belongs to liability for the support of himself or family, or so as thereby to injure his health, endanger the loss thereof, or to endanger the personal safety and comfort of his family or any member thereof, or the safety of any other person, or the security of the property of any other person, or when any person shall, on account of the use of intoxicating liquors, become dangerous to the peace of any community, the wife of such person, the supervisors of such town, the mayor, chief of police, or aldermen of such city, the trustees of such village, the county superintendent of the poor of such county, the chairman of the county board of supervisors of such county, the district attorney of such county, or any of them, may, in writing signed by her, him, or them, forbid all persons knowingly to sell or give away to such person any intoxicating liquors

for the space of one year and in like manner may forbid the selling, furnishing, or giving away of any such liquors knowingly to such person by any person in any town, city, or village to which such person may resort for the same. A copy of said writing so signed shall be personally served upon the person so intended to be prohibited from obtaining any such liquor.

(2) And the wife of such person, the supervisors of any town, the aldermen of any city, the trustees of any village, the county superintendent of the poor of such county, the mayor of any city, the chairman of the county board of supervisors of such county, or the district attorney of such county, may, by a notice made and signed as aforesaid, in like manner forbid all persons in such town, city, or village, to sell or give away intoxicating liquors or drinks to any person given to the excessive use of such liquors or drinks, specifying such person, and such notice shall have the same force and effect when such specified person is a nonresident as is herein provided when such specified person is a resident of said town, city, or village.

176.27 RENEWAL OF PROHIBITION. Such supervisors, aldermen, trustees, county superintendent of the poor, mayor, chairman of the county board, or district attorney, or any one of them, may, in the same manner, renew such prohibition from year to year as to all such persons as have not, in their or his opinion, reformed within the year; and if any person so prohibited shall, during such prohibition, sell or give away, to any person to whom such sale shall have been so forbidden, any such liquors of any kind whatsoever he shall forfeit for each offense the sum of fifty dollars, to be recovered upon his bond in an action to be prosecuted by the town, county, village or city treasurer.

176.28 SALE TO FORBIDDEN PERSON; EVIDENCE; PLEADING. (1) When the sale or giving away of any intoxicating liquors to any person shall have been forbidden in the manner provided by law, every person who shall sell or give to, or for, or purchase or procure for, or in behalf of, such prohibited person any such liquors, shall be deemed guilty of a misdemeanor and shall be punished by a fine not exceeding fifty dollars and the costs of prosecution; and in default of immediate payment thereof he shall be committed to the county jail or house of correction not less than thirty days unless sooner discharged by the payment of such fine and costs.

(2) The person to whom the selling to, or purchasing or procuring for, any such liquors has been prohibited may be arrested on complaint of the wife of such person or of any supervisor, trustee, alderman, county superintendent of the poor, mayor, chairman of the county board, or district attorney and brought before any justice of the peace of the county to testify as to where and from, through or by whom, or by whose agency, he obtained or procured intoxicating liquor, and if he shall refuse to testify he shall be committed to the county jail or house of correction to be detained therein until he shall so testify or be discharged by order of the court.

(3) In any such prosecution it shall not be necessary to allege in the complaint or information any facts tending to show that the person to whom such liquors were sold or given was a person to whom the sale of such liquors might lawfully or properly be forbidden, but it shall be sufficient to allege generally that such liquors were given or sold by the accused to such person.

176.29 LIQUOR SALES TO FORBIDDEN PERSONS BY UNLICENSED DEALERS. The provisions of section 176.28 shall be held to apply to all persons, whether licensed dealers or not, and the notice provided for by section 176.26 shall be held to be a notice to all persons, whether licensed dealers or not, in any prosecution brought under the provisions of section 176.28.

176.30 MINORS; INTOXICATED PERSONS; HOSPITALS. (1) SALE TO MINOR OR INTOXICATED PERSON; PENALTY. Any keeper of any place of any name whatsoever for the sale of any intoxicating liquors who shall sell, vend, or in any way deal or traffic in, or, for the purpose of evading any law of this state relating to the sale of liquors, give away any such liquors in any quantity whatsoever to or with a minor, or to any person intoxicated or bordering on a state of intoxication, and any person whatever who shall procure for, or sell, or give away, to any minor, whether upon the written order of the parents or guardian of such minor or in any other manner whatsoever, or to any intoxicated person, any such liquors shall be punished by a fine of not less than five dollars nor more than fifty dollars, or by imprisonment in the county jail or house of correction not to exceed thirty days, or by both such fine and imprisonment.

(2) MINOR, SEVENTEEN OR UNDER. Where the offense is that of selling intoxicating liquor to a minor seventeen years of age or under, the guilty person shall be punished by a fine

of not less than twenty-five nor more than two hundred dollars, or by imprisonment in the county jail or house of correction not less than five days nor more than eight months, and in all cases of conviction for a second or any subsequent offense by such imprisonment only.

(3) NEAR INSANE HOSPITALS. No person shall sell, or in any way deal or traffic in, or, for the purpose of evading law, give away any such liquors in any quantity whatsoever within one mile of any of the state hospitals for the insane, and any person who shall so sell or give away any such liquors, shall be punished by a fine of not less than ten dollars nor more than fifty dollars, or by imprisonment in the county jail or house of correction not to exceed sixty days, or by both such fine and imprisonment.

176.31 MINOR'S MISREPRESENTATION TO PROCURE INTOXICATING LIQUOR; PENALTY. Any minor who shall represent that he is of age for the purpose of asking for, or receiving, any intoxicating liquors from any keeper of any place of any name whatsoever for the sale of intoxicating liquors, except in cases authorized by law, shall be punished by a fine of not less than one dollar, nor more than fifteen dollars, or by imprisonment in the county jail or house of correction not to exceed ten days, or by both such fine and imprisonment.

176.32 PRESENCE IN PLACES OF SALE PROHIBITED; PENALTY. (1) Every keeper of any place, of any nature or character whatsoever, for the sale of any intoxicating liquor, who shall either directly or indirectly suffer or permit any person of either sex under the age of twenty-one years, unaccompanied by his or her parent or guardian, or suffer or permit any person to whom the sale of any such liquors has been forbidden in the manner provided by law, who is not a resident, employe, or a bona fide lodger or boarder on the premises of such licensed person, to linger or loiter in or about any barroom or other room on such premises in which such liquor is sold or dispensed, shall, for every such offense, be liable to a penalty not exceeding fifty dollars, besides costs, or imprisonment in the county jail or house of correction not exceeding sixty days; and any such person so lingering or loitering, as aforesaid, who is not a resident, employe, or a bona fide lodger or boarder on the premises, or who is not accompanied by his or her parent or guardian, shall also be liable to a penalty of not more than twenty dollars, besides costs, or imprisonment not exceeding

thirty days in the county jail or house of correction. This section shall not apply to hotels, restaurants, grocery stores, and bowling alleys.

(2) Any person to whom the sale of any such liquors has been forbidden in the manner provided by law who shall enter any place of any nature or character whatsoever for the sale of such liquors shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than ten dollars nor more than fifty dollars or by imprisonment in the county jail or house of correction not less than ten days nor more than sixty days or by both such fine and imprisonment.

176.33 FURNISHING LIQUOR AT PUBLIC AUCTIONS; PENALTY. It shall be unlawful for any person to sell, furnish, or give away any intoxicating liquors at any public auction held in this state, or to any person or persons in attendance at any such auction, and any person who shall so sell, furnish, or give away any such liquor shall be deemed guilty of an evasion of the provisions of this chapter, and upon conviction thereof shall be punished by a fine of not less than thirty dollars nor more than one hundred dollars, or by imprisonment in the county jail or house of correction for not less than three months nor more than six months, or by both such fine and imprisonment.

176.34 SALE ON ELECTION DAY. If any person shall sell, give away, or barter any intoxicating liquors on the day of the annual spring election, the biennial fall election, special election, or primary election, until after the polls at any such election are closed, such person so offending shall be punished by a fine of not less than five nor more than twenty-five dollars, or by imprisonment in the county jail or house of correction not to exceed thirty days, or by both such fine and imprisonment.

176.35 ACTION FOR INJURY BY UNLAWFUL SALE. Any person or persons who shall be injured in person, property, or means of support by, or in consequence of, the intoxication of any minor or habitual drunkard shall have a right of action jointly or severally in his, her, or their name against any person or persons who have been notified or requested in writing, by the officers authorized by law to forbid the sale or giving away of intoxicating liquors to such minor or habitual drunkard, or by the husband, wife, parents, relatives, guardian, or persons having the care or custody of such minor or habitual drunkard, not to sell or give intoxicating liquors to him, and who, notwithstanding such notice or request, shall

knowingly sell or give away intoxicating liquors, thereby causing the intoxication of such minor or drunkard; and the person so selling or giving away such liquors or drinks shall be liable for all damages resulting therefrom. A married woman shall have the same right to bring such suit and to control the same as a feme sole, and all damages so recovered shall belong to her and her separate property.

176.36 EXCISE LAWS; ENFORCEMENT BY LOCAL OFFICERS; PENALTY. Every sheriff, undersheriff and deputy sheriff, police officer, marshal or deputy marshal, or constable of any town, village, or city who shall know, or be credibly informed, that any offense has been committed against the provisions of any law of this state relating to the sale of intoxicating liquors, shall make complaint against the person so offending within their respective towns, villages, or cities to a proper justice of the peace or other magistrate therein, and for every neglect or refusal so to do, every such officer shall be deemed guilty of a misdemeanor and shall be punished by a fine not exceeding fifty dollars and the costs of prosecution.

176.37 WHAT IS A SALE; FORM OF COMPLAINT; ORDER TRAFFIC. (1) The giving away of intoxicating liquors or other shift or device to evade the provisions of any law of this state relating to the sale of such liquors shall be deemed and held to be an unlawful selling within its provisions, and in all cases not otherwise specially provided for any person convicted of any misdemeanor under the provisions of any such law shall be punished by a fine not exceeding fifty dollars and shall pay the costs of prosecution, and in default of immediate payment of such fine and costs shall be committed to the county jail or house of correction for not less than thirty days nor more than ninety days unless sooner discharged by the payment of such fine and costs; the words "any law of the state relating to excise or the sale of intoxicating liquors", or any words of similar import when used in the statutes, shall be held to include and apply to all excise laws heretofore enacted which shall remain in force as well as to all provisions of this chapter and to all excise laws which may be hereafter enacted so long as the same shall remain in force.

(2) In any prosecution for an offense against, or violation of, any law of this state relating to the sale of intoxicating liquors it shall not be necessary to allege or state in the complaint, information, or indictment the kind or quantity of such liquor sold or the

person to whom the same was sold, but it shall be sufficient to allege generally that the accused sold intoxicating liquor at a time and place mentioned, together with a brief statement of the fact showing such sale to be unlawful. In all cases proofs of the sale or giving away of any such liquor of any name or nature whatsoever shall be deemed proof of the sale or giving away of intoxicating liquors without proof that the intoxicating liquor so sold or given away was in fact intoxicating.

176.38 LOCAL OPTION. (1) PETITION; ELECTION. Whenever a number of the qualified electors of any town, village, or city equal to, or more than, fifteen 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 person shall be licensed to deal or traffic in any intoxicating liquors as a beverage, or the question whether or not liquor stores as provided for in section 176.08 shall be established, maintained, and operated, or that both such questions be submitted to them, and shall file such petition with the clerk at least thirty days prior to the first Tuesday of April next succeeding, such clerk shall forthwith make an order providing that such question or questions shall be so submitted on the first Tuesday of April next succeeding the date of such order.

(2) NOTICE. The city clerk making such order shall give notice of the election to be held on such question or questions in the manner notice is given of the regular city election; town and village clerks who make such orders shall give such notice by posting written or printed notices in at least five public places in the town or village not less than ten days before the day of election. The election on such question or questions 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 changed by ballot at another election held for the same purpose.

176.39 EFFECT OF ELECTION. The ballots upon the question or questions so submitted shall be deposited in a separate ballot box in each town and election district and shall contain the words "For License", and "Against License", or "For Liquor Store"

and "Against Liquor Store", and shall otherwise conform to the provisions of subsection (8) of section 6.23. Both questions may be submitted on the same ballot.

176.40 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.

176.401 EXEMPTIONS. (1) No provision of this chapter shall apply to alcohol intended for use and used in the manufacture and sale of any of the following when unfit for beverage purposes, namely: (a) Denatured alcohol produced and used pursuant to Acts of Congress and regulations promulgated thereunder;

(b) Patent, proprietary, medicinal, pharmaceutical, antiseptic, and toilet preparations;

(c) Flavoring extracts, syrups, and food products;

(d) Scientific, chemical, mechanical, and industrial products.

(2) Any person who shall knowingly sell any of the products enumerated in paragraphs (a), (b), (c), or (d) for intoxicating beverage purposes, or who shall sell any of the same under circumstances from which he might reasonably deduce the intention of the purchaser to use them for such purposes, shall be subject to the penalties provided for in section 176.41 of this chapter.

176.41 PENALTIES. Any person who shall violate any of the provisions of this chapter for which a 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 or house of correction 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.

176.42 THE STATE TREASURER TO PRESCRIBE STANDARDS OF CONTAINERS. The state treasurer may by order prescribe the standard size, form, or character of bottles, kegs, barrels, pack-

ages, or other containers in which intoxicating liquor shall be sold in this state. Each such order shall specify the effective date thereof and shall first be published in the official state paper at least once.

176.43 MUNICIPAL REGULATIONS. Any city, village, or town may by ordinance prescribe additional regulations in or upon the sale of intoxicating liquor, not in conflict with the provisions of this chapter. Such ordinance may prescribe different penalties than those provided in this chapter, but no ordinance shall provide a greater penalty than the maximum allowed by law. The provisions of this chapter shall in no way affect the power of cities, villages and towns to enact zoning ordinances or to enforce zoning regulations now in force or hereinafter enacted. Whenever any person shall be committed to the county jail or house of correction for the violation of a municipal ordinance, his board shall be paid by the municipality where such violation was committed.

176.44 LEGISLATIVE INTENT. (1) The provisions of this chapter shall be construed as an enactment of state-wide concern for the purpose of providing a uniform regulation of the sale of liquors.

(2) 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 circumstances is held invalid the remainder of the chapter and the application of such provisions to other persons or circumstances shall not be affected thereby.

176.45 HOME MADE WINE OR BEER LEGAL. Nothing in this chapter shall be construed to prevent any person from manufacturing wine or beer of any alcoholic content at his home, farm, or place of residence to be consumed by himself, his family, and guests without compensation.

20.165 There is appropriated to the state treasurer from the general fund in the treasury of the state, not otherwise appropriated, a sum sufficient to enable him to carry out the duties herein imposed upon him by chapter 176.

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

Approved February 2, 1934.