UNITED STATES OF AMERICA

The State of Michigan

E PLURIBUS UNUM
TUEBOR
SI QUÆRIS PENINSULAM AMŒNAM
CIRCUMSPICE

DEPARTMENT OF STATE

TO ALL TO WHOM THESE PRESENTS SHALL COME:

I, Frank D. Fitzgerald, Secretary of State of the State of Michigan and Custodian of the Great Seal thereof, Do Hereby Certify that this volume contains all of the Public Acts passed at the First and Second Extra Sessions of the Legislature, held at Lansing, in the years one thousand nine hundred thirty-three and thirty-four, that were duly enrolled by the clerks authorized so to do, signed by the Secretary of the Senate and Clerk of the House of Representatives, and approved by the Governor, all in accordance with the statute in such cases made and provided.

In Testimony Whereof, I have hereunto set my hand and affixed the Great Seal of the State at the Capitol, in the City of Lansing, this 14th day of September A.D. 1934.

Frank D. Fitzgerald
Secretary of State.

504 12-30-32 5M

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STATE OF MICHIGAN

57TH LEGISLATURE

EXTRA SESSION OF 1933

Introduced by
Messrs. Schoenhals and DeLano at the request of The Legislative Council.

Bill No. 1
File No. 1

HOUSE ENROLLED ACT No. 2

AN ACT to create a liquor control commission for the control of the alcoholic beverage traffic within the state of Michigan, and to prescribe its powers, duties and limitations; to provide for the control of the alcoholic liquor traffic within the state of Michigan and the establishment of state liquor stores; to provide for the licensing and taxation thereof, and the disposition of the moneys received under this act; to provide for the enforcement and to prescribe penalties for violations of this act; to provide for the confiscation and disposition of property seized under the provisions of this act; to provide a referendum in certain cases; and to repeal certain acts and parts of acts, general, local and special, and certain ordinances and parts of ordinances.

The People of the State of Michigan enact:

Section 1. Scope of act. On and after the effective date of this act, it shall be lawful to manufacture for sale, sell, offer for sale, keep for sale, possess and/or transport any alcoholic liquor, as hereinafter defined, including alcoholic liquor used for medicinal, mechanical, chemical or scientific purposes and wine for sacramental purposes, subject to the terms, conditions, limitations and restrictions contained herein, and only as provided for in this act.

Except as by this act otherwise provided, the commission shall have the sole right, power and duty to control the alcoholic beverage traffic and traffic in other alcoholic liquor within the state of Michigan, including the manufacture, importation, possession, transportation and sale thereof.

No rule, regulation and/or order made by the commission shall unreasonably discriminate against Michigan manufacturers of alcoholic liquor.

The sheriffs of the several counties and their deputies and the village marshals, constables, officers or members of the village or city police and members of the department of state police, and inspectors of the commission, are hereby empowered and it is hereby made their duty to see that the provisions of this act and the rules and regulations made or authorized by said commission are enforced within their respective jurisdictions. It shall be their special duty to use their utmost efforts to repress and prevent crime and the violation of any of the provisions of this act. Any officer within the above enumeration who shall wilfully neglect or refuse to perform the duties imposed upon him by this section shall be guilty of a misdemeanor and upon conviction shall be fined not to exceed five hundred dollars or imprisoned in the county jail not more than ninety days, or both.

Sec. 2. Definitions. The words and phrases used in this act shall be construed as follows, unless the context shall otherwise require:

"Alcoholic liquor" to include any spirituous, vinous, malt, or fermented liquor, liquids and compounds, whether or not medicated, proprietary, patented, 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. The commission shall define and classify alcoholic liquor according to their alcoholic content as belonging to one of the varieties hereinafter defined.

"Beer" to mean any beverage obtained by alcoholic fermentation of an infusion or decoction of barley, malt, hops and/or other cereal in potable water.

"Wine" to mean the product made by the normal alcoholic fermentation of the juice of sound, ripe grapes, or any other fruit with the usual cellar treatment, and containing not more than sixteen per cent of alcohol by volume. The term "wine" shall include fermented fruit juices other than grapes.

"Spirits" to mean any beverage which contains alcohol obtained by distillation, mixed with potable water and other substances in solution and includes, among other things, wine containing an alcoholic content of over sixteen per cent by volume.

"Alcohol" to mean the product of distillation of fermented liquid, whether rectified or diluted with water or not, whatever may be the origin thereof. It does not mean ethyl and/or industrial alcohol, diluted or not, that has been denatured or otherwise rendered unfit for beverage purposes.

"Bar" to mean a barrier or counter over which any alcoholic liquor may be passed or served directly to customers.

"Beer garden" to mean a place enclosed and shall be either without or in whole or in part within a building, which enclosure shall have an area on a single level of not less than three thousand square feet. A "garden" may or may not sell food habitually to persons, but all food or beer sold therein shall be served only to persons seated at tables.

"Brewer" to mean any person duly licensed to manufacture and sell beer.

"Citizen" to mean any person not less than twenty-one years of age who is a citizen of the United States of America.

"Club" to mean an association whether incorporated or unincorporated, the majority of whose members shall be citizens, for the promotion of some common object, (not including associations organized for any commercial or business purpose, the object of which is money profit) owning, hiring or leasing a building, or space in a building, of such extent and character as in the judgment of the commission may be suitable and adequate for the reasonable and comfortable use and accommodation of its members and their guests. Such club shall file with the commission annually, within ten days of February first of each year, a list of the names and residences of its members, and similarly file, within ten days of the election of any additional member, his name and address, and that its aggregate annual membership fees or dues and other income, exclusive of any proceeds of the sale of alcoholic liquor, are sufficient to defray the annual rental of its leased or rented premises, or, if such premises are owned by the club, are sufficient to meet the taxes, insurance, repairs, and the interest on any mortgage thereon. The affairs and management of the club shall be conducted by a board of directors, executive committee, or similar body chosen by the members. No member or any officer, agent or employe of the club shall be paid, or directly or indirectly receive in the form of salary or other compensation, any profits from the disposition or sale of alcoholic liquor to the club or to the members of the club, beyond the amount of such salary as may be fixed and voted at meetings by the members or by its directors or other governing body and as reported by the club to the commission, within three months after such meeting.

"Commission" to mean the liquor control commission herein provided for.

"Distiller" to mean any person duly licensed to manufacture and sell spirits and/or alcohol of any kind.

"Hotel" to mean a building which in the judgment of the commission has been regularly used and kept open as such in a bona fide manner for the feeding and lodging of guests, where all who conduct themselves properly and who are able and ready to pay for such services are received if there be accommodations for them. Said hotel must be prepared to show that the major portion of its receipts is derived from the renting of rooms and the sale of food. The commission may require that said hotel shall have been maintained as such for a period of one year prior to the issuance of the license. For license purposes "hotels" in cities of fifty thousand population and less than one hundred seventy-five thousand population shall contain not less than twenty-five permanent bedrooms and in cities of one hundred seventy-five thousand population or over shall contain not less than fifty permanent bedrooms within one structure for lease to persons, and shall be adequately equipped to serve meals to not less than one hundred persons at one time, in a cafeteria and/or dining room provided for that purpose. Any hotel in a city, village or township of less than one hundred thousand population which does not contain at least twenty-five permanent bedrooms, but shall be adequately equipped to serve meals to not less than twenty-five persons at one time in a public cafeteria and/or dining room provided for that purpose, may apply to the commission setting forth the special facts and circumstances, and the commission may make an exception and grant such petitioner a hotel license. Class "A" hotels are those hotels, licensed under this act to sell beer and wine. Class "B" hotels are those hotels, licensed under this act to sell beer, wine and spirits.

"License" to mean a contract between the commission and the licensee granting authority to said licensee to manufacture and sell, or sell, or warehouse any alcoholic liquor in the manner provided by this act.

"Manufacturer" to mean any person engaged in the manufacture of any alcoholic liquor, and among others, includes a distiller, a rectifier, a wine maker and a brewer.

"Person" to mean any person, firm, partnership, association or corporation.

"Residence" to mean the premises where a person resides, permanently or temporarily.

"Restaurant" to mean a place located in a permanent building or on a

passenger train or passenger vessel or aircraft, provided with space and accommodations wherein, in consideration of the payment of money, hot meals are habitually prepared, sold and served to persons at noon and at evening as the principal business of the place, except as hereinafter provided: *Provided, however,* That this section shall not be construed to include drug, candy and/or confectionery stores. Class "A" restaurants are those restaurants that elect to take out a tavern license, governed by tavern restrictions, but not limited by square feet area, and which serve either a noon or evening meal. Class "B" restaurants are those restaurants where both beer and wine are sold, and which serve hot meals at noon and evening. Class "C" restaurants are those restaurants where beer, wine and spirits may be sold under this act for consumption on the premises, and which in the judgment of the commission shall have been regularly and in a bona fide manner used and kept open for the serving of meals to guests for compensation. Said restaurant must show that the major portion of its receipts is derived from the sale of food. Such restaurant shall have suitable kitchen facilities connected therewith, containing conveniences for cooking an assortment of foods which may be required for ordinary meals. "Meals" shall mean the usual assortment of foods commonly ordered at various hours of the day; the service of such food and victuals as sandwiches, salads, etc., shall not be regarded as compliance with this requirement.

"Retailer" to mean any person who customarily sells in small quantities to the consumer.

"Sale" to include exchange, barter or traffic, furnishing or giving away any alcoholic liquor. In case of a sale in which a shipment or delivery of any alcoholic liquor is made by a common or other carrier, the sale thereof shall be deemed to be made in the county wherein the delivery thereof is made by such carrier to the consignee, his agent or employe, and the prosecution for such sale may be had in the county or city where the seller resides, or from which the shipment is made or at the place of delivery.

"Special license" to mean a contract between the commission and the special licensee granting authority to said licensee to sell beer and/or wine: *Provided, however,* That such license shall be granted only to such persons and such organizations and for such period of time as the commission shall determine.

"Specially designated distributor" to mean a person engaged in an estab-

lished business licensed and paid by the commission to distribute alcoholic liquor other than beer in the original package for the commission for consumption off the premises.

"Specially designated merchant" to mean any person to whom the commission grants a license to sell beer and/or wine at retail for consumption off the premises of such licensed place.

"State liquor store" to mean a store established by the liquor control commission under this act for the sale of alcoholic liquor in the original package for consumption off the premises.

"Tavern" to mean any place licensed to sell at retail beer for consumption on the premises only, in any place of less than three thousand square feet in area.

"Vendor" to mean a person licensed by the commission under this act to sell alcoholic liquor.

"Vehicle" to mean any means of transportation by land, by water, or by air.

"Warehouse" to mean any premises or place primarily constructed or used or provided with facilities for the storage in transit or other temporary storage of perishable goods and/or for the conduct of a warehousing business.

"Wholesaler" to mean any person who customarily sells to retailers or jobbers rather than to the consumer.

"Wine maker" to mean any person duly licensed to manufacture and sell at wholesale wine, with no restriction as to the alcoholic content.

Sec. 3. Alcoholic liquor; delivery and sale by commission. Excepting as otherwise provided in this act, no sale and/or delivery of alcoholic liquor, other than beer, shall be made in this state unless such sale and/or delivery be made by the commission, or its authorized agent or distributor. All alcoholic liquor, other than beer, for distribution in this state, shall orignally be purchased by and/or imported into the state by the commission: *Provided,* That nothing in this act shall prohibit any natural person, not a minor, from purchasing beer in not less than case lots directly from the manufacturer, to be delivered to him by the manufacturer at the plant or at his home, subject to the reasonable regulation of the commission.

Sec. 4. Exceptions to act. The provisions of this act shall not be construed to prevent the manufacture of cider from fruit, for the purpose of making vinegar, and non-intoxicating cider and fruit juice for use and sale, and cider and fruit juice shall be deemed non-intoxicating within the meaning of this

act when used and/or sold within thirty days after the manufacture thereof; and this act shall not apply to wine or cider of any alcoholic content made on the premises by the owner or lessee of such premises provided such premises are used and occupied by such owner or lessee as a dwelling and such wine or cider is made for family use and home consumption; or to prevent the sale or gift, or keeping and storing for sale by druggists and general merchants and others of any of the medicinal preparations manufactured in accordance with the formulas prescribed by the United States pharmacopoeia and national formulary, patent or proprietary preparations, and other bona fide medicinal and technical preparations, which contain no more alcohol than is necessary to extract the medicinal properties of the drugs contained in such preparations; and no more alcohol than is necessary to hold the medicinal agents in solution and to preserve the same, which are manufactured and sold as medicine and not as beverages, are unfit for use for beverage purposes, and the sale of which does not now require the payment of a United States liquor dealer's tax; or to prevent the manufacture and sale of tinctures or of toilet, medicinal and antiseptic preparations and solutions not intended for internal human use nor to be sold as beverages, and which are unfit for beverage purposes, and upon the outside of each bottle, box or package of which is printed in the English language, conspicuously and legibly, the quantity by volume of alcohol in such preparations; or to prevent the manufacture and keeping for sale of the food product known as flavoring extracts which shall be so manufactured and sold for cooking, culinary or flavoring purposes, and are unfit for use as a beverage or for beverage purposes: *Provided,* That it shall not be lawful to manufacture or sell any toilet, medicinal or antiseptic preparations or solutions, or any flavoring extracts or patent or proprietary medicines or preparations, the manufacture and sale of which now requires the payment of a United States liquor dealer's tax, except as herein provided: *Provided further,* That nothing in this act shall apply to the manufacture and/or sale of ethyl, mechanical or industrial alcohol, not used for or made unfit for beverage purposes: And *provided further,* That this act shall not apply to the purchase of alcoholic liquor as defined in this act, for use in the manufacture of toilet, medicinal or antiseptic preparations or solutions, or any flavoring extract or patent or proprietary medicines or preparations, by a manufacturer using such alcoholic liquor exclusively for such manufacturing purposes and duly licensed therefor by the commission; said license to expire on May first follow-

Sec. 12. Same; liability of commission. The commission, or any member of the commission, shall not be personally liable for any action at law for damages sustained by any person because of any action performed or done by the commission, or any member of the commission, in the performance of their respective duties in the administration and in the carrying forth of the purposes and provisions of this act.

Sec. 13. The commission may establish state liquor stores throughout the state of Michigan: *Provided,* That in counties under seventy-five thousand population according to the last federal census there shall be no more than one store in any such county: *Provided further,* That in counties of seventy-five thousand population or over according to the last federal census such stores shall not exceed one for each seventy-five thousand population or major fraction thereof according to the last federal census.

Sec. 14. Same; specially designated distributors. The commission may license any hotel or established merchant, who or which shall be if a natural person, a citizen of this state and if a corporation, shall be organized under the laws of the state of Michigan, in such places as it may designate to sell alcoholic liquor for consumption off the premises. Such distributors shall be paid by the commission a sum to be fixed by the commission: *Provided, however,* That in no case shall such payment exceed the sum of twelve hundred dollars per annum. Where alcoholic liquor is sold by specially designated distributors, it shall be sold at a price to be fixed by the commission and without profit to the distributor, and shall be sold in accordance with the rules and regulations of the commission.

Sec. 15. Same; handling of liquor, borrowing power. The commission shall have the right and power to buy, have in its possession and sell in its own name all alcoholic liquor for distribution as provided in sections thirteen and fourteen. It shall be the duty of the commission to supply such brand or brands of alcoholic liquors as shall be demanded by the public: *Provided, however,* That if any such brands as are demanded are not manufactured within the borders of the United States or are not readily obtainable within the borders of the United States, then such orders shall be filled by the commission at the entire expense of the person placing such order, plus not more than twenty per cent gross profit. The commission may lease or occupy any building or land required for its operation, and by and with the consent of the state administrative board may borrow, subject to constitutional limita-

tions, money to inaugurate and carry on its work, guaranteeing the payment thereof and the interest thereon from the proceeds derived from this act.

Sec. 16. Same; cash sales, price. The commission shall establish a uniform price or prices for the sale of alcoholic liquor in state liquor stores and by specially designated distributors. Such price or prices shall not return a gross profit to the commission in excess of forty per cent: *Provided, however,* That wine manufactured in Michigan from the juice of grapes grown in Michigan shall be sold at prices that shall not exceed the cost to the commission of buying and distributing such wine, and shall in no case exceed a gross profit to the commission of ten per cent. On the sale of alcoholic liquors made by state liquor stores or specially designated distributors to establishments licensed to sell for consumption on the premises, there shall be allowed a discount of fifteen per cent deducted from the sale price as established by the commission, but in no case shall such discount reduce the price below the cost to the commission plus a ten per cent gross profit. Every sale of alcoholic liquor made in state liquor stores and by specially designated distributors shall be for cash only.

Sec. 17. Licenses; contract, transfer. The commission is hereby authorized to issue licenses in its discretion, as provided in this act, upon the payment of the fees provided in section nineteen and the filing of the bonds required in section twenty-two. The commission shall issue licenses to manufacturers only when a majority of the stockholders are citizens and only when twenty-five per cent or more of the capital stock is owned by citizens of the state of Michigan. Such licenses shall expire on May first following the date of issuance. All licenses issued under this act shall be construed to be a contract between the commission and the licensee, and shall be signed by both parties. The commission is authorized to grant part year licenses for a proportionate part of the license fee hereinafter specified. Licenses may be transferred with the consent of the commission: *Provided, however,* That all applications for licenses to sell beer and/or wine and/or spirits for consumption on the premises shall be approved by the local legislative body in which said applicant's place of business is located before being granted a license by the commission: *Provided further,* That upon request of the local legislative body, the commission shall revoke the license of any licensee granted a license to sell beer and/or wine and/or spirits for consumption on the premises: *Provided further,* That these provisos shall not apply in counties having a

population of five hundred thousand or over, according to the last federal census.

Sec. 18. Same; licenses under beer law. Any person holding a license under act number sixty-four of the public acts of nineteen hundred thirty-three may continue to operate under such license until May first, nineteen hundred thirty-four; in the event such person desires to manufacture and/or sell wine under the provisions of this act but by virtue of a license heretofore issued for such purposes, he shall pay to the commission such added fee as shall make the total comply with the provisions of this act, prorated over the unexpired term. The commission shall have the same authority in granting any such additional license as is vested in the commission in issuing new licenses under this act.

Sec. 19. Same; fees. The following license fees shall be paid at the time of filing applications:

1. Manufacturers of spirits, five thousand dollars;

2. Manufacturers of beer, fifty dollars per thousand barrels production annually with a minimum fee of one thousand dollars;

3. Wine makers, blenders and rectifiers of wine, two hundred and fifty dollars;

4. Dining cars or other railroad or pullman cars, twenty-five dollars per car;

5. Wholesale vendors other than manufacturers of beer, one hundred dollars;

6. Watercraft, licensed to carry passengers, a minimum fee of fifty dollars and a maximum fee of five hundred dollars per year computed on the basis of one dollar per person per passenger capacity;

7. Specially designated merchants, for selling beer and/or wine for consumption off the premises only, but not at wholesale, twenty-five dollars for each and every location regardless of the fact that such a location may be a part of any system or chain of merchandising;

8. Hotels of Class "A" selling beer and wine, a minimum fee of one hundred and fifty dollars, and for all bedrooms in excess of twenty, one dollar for each additional bedroom, but not to exceed five hundred dollars;

Hotels of Class "B" selling beer, wine and spirits, a minimum fee of three hundred dollars, and for all bedrooms in excess of twenty, two dollars for each additional bedroom, but not to exceed one thousand dollars;

9. Taverns, one hundred dollars;

10. Restaurants of Class "A" selling beer only, one hundred dollars; Restaurants of Class "B" selling beer and wine, two hundred dollars; Restaurants of Class "C" selling beer, wine and spirits, five hundred dollars;

11. Beer gardens selling beer only, two hundred dollars;

12. Clubs selling wine and/or beer, one hundred dollars for clubs having one hundred fifty or less duly accredited members and one dollar for each additional member: *Provided, however,* That the maximum fee shall not exceed five hundred dollars for any one club;

13. Warehouses, to be fixed by the commission with a minimum fee for each warehouse of twenty-five dollars;

14. Special licenses, a fee of not less than two nor more than five dollars per day, in the discretion of the commission.

15. Druggists and registered pharmacists for the sale of alcoholic liquor, other than as specially designated merchants, five dollars;

16. Aircraft selling beer and/or wine, to be fixed by the commission.

17. No license shall be granted to sell spirits in any form at retail for consumption on the premises in excess of one license for each seven hundred fifty of population, or major fraction thereof, according to the last federal census.

18. Any retail vendor licensed under this act to sell for consumption on the premises shall be eligible to be licensed as a specially designated merchant upon the payment of the specially designated merchant's license fee.

19. No licensee enumerated in this section or any other person shall sell at retail, give away or furnish any spirits on any Sunday, primary election day, general election day or municipal election day. Any violation of this subsection shall constitute a misdemeanor: *Provided,* That this subsection shall not apply to spirits served to bona fide guests in the residence of any person or sold or furnished for medicinal purposes as provided for in this act. The legislative body of any city, village or township may, by resolution or ordinance, prohibit the sale of alcoholic liquor for consumption on the premises on any Sunday, legal holiday, primary election day, general election day or municipal election day.

Sec. 20. Same; revocation and suspension. The commission shall have the right and power to suspend or revoke any and all licenses upon a violation

of any of the provisions of this act or any of the rules and regulations adopted by the commission hereunder.

The commission shall provide the procedure by which any licensee feeling aggrieved by any such suspension or revocation may have a hearing for the purpose of laying any facts or reasons before said commission why said suspension or revocation should be modified or rescinded. Such right, however, shall not be interpreted by any court as curtailing, removing or annulling the right in said commission to so suspend or revoke licenses as hereby given it. The licensee shall have no right of appeal from the final determination of the commission, except by writ of certiorari to the proper court. Notice of the order of suspension or revocation of a license shall be given in the manner prescribed by the commission. The suspension or revocation of a license by the commission shall not prohibit the institution of criminal prosecutions for the violations of the provisions of this act. The institution of criminal prosecutions for such violations, or the acquittal or conviction of any person thereunder, shall not prevent the suspension or revocation of licenses by the commission.

Sec. 21. Same; forfeiture of privileges under. Any and all privileges conferred by a license issued under this act shall be forfeited on the revocation of such license and the commission shall seize any and all alcoholic liquor found in the possession of the licensee. The commission shall remit to such licensee the purchase price less ten per cent, paid by the licensee to the commission for all alcoholic liquor seized. All other alcoholic liquor seized shall be disposed of by order of the commission and no payment shall be made therefor.

Sec. 22. Same; bonds. As a condition precedent to the approval and granting of any license, and annually thereafter, the following persons shall make, execute and deliver to the commission a bond or bonds, said bond or bonds to be executed by any surety company or companies authorized to do business in the state of Michigan or in the discretion of the commission by approved personal surety running to the people of the state of Michigan, in the following amounts:

1. Manufacturers, a bond or bonds in the sum of five thousand dollars; wholesalers, a bond or bonds in the sum of two thousand five hundred dollars; warehousemen, a bond or bonds in the sum of two thousand five hundred dollars; specially designated merchants, a bond or bonds in the sum of one

thousand dollars, for the faithful performance of the conditions of the license issued and compliance with the provisions of this act;

2. Retailers of beer and/or wine for consumption on the premises, a bond or bonds in the sum of not less than three thousand nor more than five thousand dollars, in the discretion of the commission; retailers of spirits for consumption on the premises, a bond or bonds in the sum of not less than five thousand nor more than ten thousand dollars, in the discretion of the commission, conditioned that any such retailer will not directly or indirectly, by himself, his clerk or agent or servant at any time sell, furnish, give or deliver any alcoholic liquor to a minor except as provided in this act, nor to any adult person whatever who is at the time intoxicated, and that he will pay all damages actual and exemplary that may be adjudged to any person or persons for injuries inflicted upon him or them either in person or property or means of support or otherwise, by reason of his selling, furnishing, giving or delivering any such alcoholic liquor.

Any manufacturer who has given the bond or bonds herein provided for shall not be required to give any additional bond or bonds for any warehouse he may own and/or operate.

Sec. 23. Vendors. Vendors shall be, when a corporation, only a corporation authorized to do business under the laws of the state of Michigan; when a firm or partnership, only when the majority of said firm or partnership are American citizens who have resided in the state of Michigan for one year, and when an individual, an American citizen residing in the state of Michigan for at least one year.

Sec. 24. Same; classes. The following classes of vendors shall have the right to sell the several alcohlic liquors as provided for in this section:

1. Taverns wherein beer may be sold for consumption on the premises only;

2. Restaurants of Class "A" wherein beer may be sold for consumption on the premises only;

Restaurants of Class "B" wherein beer and wine may be sold for consumption on the premises only;

Restaurants of Class "C" wherein beer, wine and spirits may be sold for consumption on the premises only;

3. Beer gardens wherein beer may be sold for consumption on the premises only;

4. Clubs wherein beer and wine may be sold for consumption on the premises only, and spirits may be kept and furnished to bona fide members, who have attained the age of twenty-one years;

5. Hotels of Class "A" wherein beer and wine may be sold for consumption on and off the premises;

Hotels of Class "B" wherein beer, wine and spirits may be sold for consumption on and off the premises;

6. Specially designated merchants, wherein beer and wine may be sold for consumption off the premises only;

7. Specially designated distributors wherein beer, wine and alcoholic liquor may be sold for consumption off the premises only;

8. Manufacturers wherein beer may be sold for consumption off the premises only, and wherein alcoholic liquor other than beer may be sold only to the commission;

9. Special licenses where beer and wine may be sold for consumption on the premises only;

10. Registered pharmacists and registered druggists to sell alcoholic liquor other than beer purchased from the commission for medicinal, mechanical, scientific, chemical or sacramental purposes, for consumption off the premises only;

11. Dining cars or other railroad or pullman cars, watercraft or aircraft, wherein alcoholic liquor may be sold for consumption on the premises only, subject to rules and regulations of the commission.

Sec. 25. Printed price list. Alcoholic liquor for consumption on the premises shall be sold only in accordance with a printed price list posted conspicuously in a prominent place on the premises.

Sec. 26. Table service. No alcoholic liquor shall be served to a person on the premises unless said person is seated at a table; nor served over a bar for consumption thereat: *Provided, however,* That alcoholic liquor may be served by any hotel licensed individually under the provisions of this act in the room of a bona fide guest thereof. No spirits shall be consumed in any place licensed under this act to sell beer and/or wine and not licensed to sell spirits.

Sec. 27. Food; purchase, giving away. No regulation shall be made requiring the purchase or serving of food with the purchase of alcoholic liquor, nor shall any food of any kind be given away in connection with the sale of alcoholic liquor.

Sec. 28. Removal of liquor from premises. Alcoholic liquor sold by vendors for consumption on the premises shall not be removed therefrom.

Sec. 29. Gifts; sales to intoxicated person. No vendor shall give away any alcoholic liquor of any kind or description at any time in connection with his business except manufacturers for consumption on the premises only. No vendor shall sell any alcoholic liquor to any person in an intoxicated condition.

Sec. 30. Aid to vendor. No manufacturer, warehouseman or wholesaler shall aid or assist any other vendor by gift or loan of money or property of any description or other valuable thing, or by the giving of premiums or rebates, and it shall be unlawful for any vendor to accept the same.

Sec. 31. Interest in business of vendor. No manufacturer, warehouseman or wholesaler shall have any financial interest, directly or indirectly, in the establishment, maintenance, operation or promotion of the business of any other vendor. No manufacturer, warehouseman or wholesaler, nor any stockholder thereof shall have any interest by ownership in fee, leasehold, mortgage or otherwise, directly or indirectly, in the establishment, maintenance, operation or promotion of the business of any other vendor. No manufacturer, warehouseman or wholesaler shall have any interest directly or indirectly by interlocking directors in a corporation or by interlocking stock ownership in a corporation in the establishment, maintenance, operation, or promotion of the business of any other vendor. No person shall buy the stocks of any manufacturer, warehouseman or wholesaler and place such stock or stocks in any portfolio under any arrangement, written trust agreement, or any form of investment trust agreement and issue participating shares based upon such portfolio, trust agreement or investment trust agreement, and sell such participating shares within the state of Michigan.

Sec. 32. Compliance with act; necessity. No person, directly or indirectly, himself or by his clerk, agent or employe shall manufacture, manufacture for sale, sell, offer or keep for sale, barter, furnish, or import, import for sale, transport for hire, transport for sale, or possess for sale any wine, spirits, alcohol and/or alcoholic liquor unless such person shall have fully complied with the provisions of this act and shall have been duly licensed by this commission.

Sec. 33. Age of purchaser. No alcoholic liquor, other than beer, shall be sold to any person unless he shall have attained the age of twenty-one years;

and no beer shall be sold to any person unless he shall have attained the age of eighteen years.

Sec. 34. Public highways, public parks and places of amusement. No alcoholic liquor shall be consumed on the public highways. No alcoholic liquor, except beer and/or wine shall be consumed in public parks and places of amusement not licensed to sell for consumption on the premises.

Sec. 35. The commanding general, Michigan National Guard, is hereby authorized to publish by general order such regulations and restrictions as to the transportation, possession, sale and use of liquors of any alcoholic content on the State Military Reservation during the field training periods of the Michigan National Guard, either in state or federal service, as shall in his opinion be for the best interests of the military service.

Sec. 36. Druggists and pharmacists; sales of liquor. Every registered druggist or pharmacist keeping a drug store, and licensed under this act, may, by himself, or his clerk, who is a registered pharmacist or a registered druggist, sell alcoholic liquor in the following cases:

1. Alcoholic liquor upon the written prescription, as herein provided, of a physician who is lawfully and regularly engaged in the practice of his profession in Michigan;

2. Alcoholic liquor for medicinal, mechanical, chemical or scientific purposes, to any hospital, infirmary, medical or educational institution where such liquors are used only for medicinal, mechanical, chemical and scientific purposes, upon the sworn, written, signed and dated application of the superintendent thereof: *Provided, however,* That the commission shall issue permits to the proper official of any hospital, infirmary, medical or educational institutions for the purchase of such alcoholic liquor direct from the manufacturers or distilling company or government bonded warehouses tax free;

3. Alcoholic liquor to any dentist or physician licensed to practice in the state of Michigan under act number two hundred thirty-seven of the public acts of eighteen hundred ninety-nine or under act number one hundred sixty-two of the public acts of nineteen hundred three as amended, who is lawfully or legally engaged in the practice of his profession, upon the sworn, written, signed and dated application of such dentist or physician, personally presented;

4. Alcohol to any veterinary surgeon who is lawfully or legally engaged in the practice of his profession in Michigan, for the use in the practice of his

profession, upon the sworn, written, signed and dated application of such veterinary surgeon, personally presented;

5. Wine for sacramental purposes to any clergyman having charge of a church, or to any recognized official thereof upon the sworn, written, signed, and dated application of such clergyman or official. The commission shall issue a permit upon request to any clergyman or duly designated officer of any established church to purchase wines for sacramental purposes direct from the manufacturer or importer;

6. Ethyl alcohol for mechanical, chemical or scientific purposes, upon the written application of the purchaser, known by such druggist or pharmacist to be a person engaged or employed in such mechanical, chemical or scientific pursuits, which shall be dated, signed and sworn to by the purchaser thereof.

Sec. 37. Same; applications and prescriptions. All such applications for the purposes above enumerated shall state clearly and specifically the kind and quantity of the alcoholic liquor required and the use to which they are to be put by the person purchasing the same, and that he will not use any of the alcoholic liquor procured thereon for a beverage or for any other use than that stated in the application. All said prescriptions and applications shall be cancelled as soon as filled by the person filling the same, by having the word "cancelled" plainly written or stamped thereon, signed and dated by the person who filled the same, and shall be kept on file by the druggist or pharmacist for a period of one year and shall be subject to inspection by any officer whose duty it is to enforce the provisions of this act. It shall be unlawful to furnish any liquors more than once upon any such prescription or application.

Sec. 38. Same; records. It shall be the duty of the druggist to register in an alphabetically arranged book, kept exclusively for the purpose, all prescriptions from physicians mentioned herein, in the following order: The name of the physician, the name of the person prescribed for, the quantity and kind of alcoholic liquor. He shall endorse upon the prescription the date upon which it was filled, the name of the druggist filling the prescription or making the sale. The application mentioned in section thirty-seven shall be filed with the prosecuting attorney, and a record thereof made by such druggist in such record book, showing the date of application, by whom made, the quantity and kind of such alcoholic liquor, and when, where and for what purposes

and by whom to be used. The applicant shall certify to the same by signing his name thereto in said record book. Such book shall be open at all times to any officer whose duty it is to enforce the provisions of this act. For the purpose of this act, any registered druggist or pharmacist making such sale shall have authority to administer the oaths herein required.

Sec. 39. Same; license. No druggist shall sell alcoholic liquor on prescription or application, as provided herein, until he shall have procured a license which may be issued by the commission.

Sec. 40. Beer; inspection and taxation. There shall be levied and collected by the commission on all beer an inspection fee at the rate of twenty-five cents per barrel: *Provided, however,* That any manufacturer of this state who shall have during the current year paid for a manufacturer's license issued under this act or under act number sixty-four of the public acts of nineteen hundred thirty-three shall be exempt from payment of the inspection fee: *Provided further,* That any manufacturer duly licensed as aforesaid and who has paid said license fee shall be exempt from payment of any tax imposed under the provisions of act number one hundred of the public acts of nineteen hundred thirty-one or amendments thereto, commonly known as the Malt Tax Act, for all malt products taxed by said act used in its manufacturing process.

There shall be levied and collected by the commission on all beer manufactured and/or sold in this state a tax at the rate of one dollar and twenty-five cents per barrel if sold in bulk, and in like ratio if sold in smaller quantities: *Provided, however,* That the tax imposed by this act upon beer manufactured in this state shall be rebated to such manufacturer upon satisfactory proof being furnished to the commission by affidavit or otherwise, as the commission may determine, that such beer was shipped out of the state for sale and consumption outside the state of Michigan.

For purposes of taxation a barrel shall be construed to contain thirty-one gallons.

Sec. 41. Same; failure to pay tax. If any person shall fail or refuse to pay the tax required by this act, the commission shall proceed to assess the tax against such person, and such tax shall become due and payable together with such penalty or penalties as the commission shall add, but such penalty or penalties shall not exceed five thousand dollars, upon demand by the commission or some person designated by it. If such tax remains unpaid for

fifteen days after such demand has been made, the commission may issue its warrant under its official seal, directed to the sheriff of any county or other officer, to levy upon and sell the property, either personal or real, of the taxpayer, used in connection with the business for the privilege of doing which the tax is levied, found within his jurisdiction, for the payment of the amount thereof with the added penalties, interest and cost of executing the warrant. Such warrant shall be returned to the commission, together with the money collected, by virtue thereof, within the time therein specified, which shall not be less than twenty nor more than ninety days from the date of the warrant. The sheriff or other officer to whom such warrant shall be directed shall proceed upon the same in all respects, and with like effect, and in the same manner as prescribed by law in respect to executions issued against property upon judgments by a court of record, and shall be entitled to the same fees for his service in executing the warrant, to be collected in the same manner. The state of Michigan, through the commission or some officer or agent designated by it, is hereby authorized to bid for and purchase any property sold under the provisions hereof.

In addition to the mode of collection provided herein, the commission may bring an action at law in the county in which the business or any part thereof is carried on, to collect and recover the amount of taxes, interest and/or penalties due from any taxpayer.

Sec. 42. Search warrant. A search warrant may be issued in accordance with the provisions of chapter sixteen of act number one hundred seventy-five of the public acts of nineteen hundred twenty-seven as amended, being sections seventeen thousand four hundred ninety-two to seventeen thousand five hundred nine of the compiled laws of nineteen hundred twenty-nine. Under such search warrant the officer may seize any alcoholic liquor, containers, implements or conveyances used in connection with the violation of the provisions of this act or any rule or regulation of the commission. All alcoholic liquor, containers, implements or conveyances seized under any such search warrant shall be turned over to the commission by direction of the court or magistrate and shall be disposed of in accordance with the rules and regulations of the commission, which shall guarantee the return of such property, or payment of moneys received for the sale of the same, to the owner unless the owner shall be charged and convicted of the alleged offense or offenses.

Sec. 43. Seizures by execution or in bankruptcy. In case of seizure of

alcoholic liquor under any judgment rendered against the holder of any license, or in the case of insolvency of such licensee, the officer seizing such alcoholic liquor or the trustee in bankruptcy of such licensee, shall deliver to the commission all alcoholic liquor found in the possession of the judgment debtor or bankrupt, as the case may be. The commission shall, within one month after the date of delivery by said officer or trustee in bankruptcy, as the case may be, pay over to such officer or trustee in bankruptcy the purchase price, less ten per cent, paid by such licensee to the commission for all legal alcoholic liquor seized, and the value, less ten per cent, as established by the commission, of other legally acquired alcoholic liquor so delivered. Any illegally acquired alcoholic liquor so delivered shall be disposed of by order of the commission and no payment shall be made therefor.

Sec. 44. Liability of vendor. Any person engaged in the business of selling or keeping for sale alcoholic liquor in violation of the provisions of this act, whether as owner, clerk, agent, servant or employe, shall be equally liable, as principal, both civilly and criminally, for the violation of the provisions of this act, or any person or principal shall be liable, both civilly and criminally, for the acts of his clerk, servant, agent or employe, for the violation of the provisions of this act.

Sec. 45. False and fraudulent statements. Any person who shall make any statement either orally or in writing to the commission for the purpose of inducing the commission to act or for the purpose of inducing the commission to refrain from taking action, which statement is false or fraudulent, and any person who makes any false or fraudulent statement for the purpose of enabling or assisting any person to evade the provisions of this act, shall be guilty of a violation of this act.

Sec. 46. Adulterated and misbranded alcoholic liquor. Any person who, by himself or by his agent or servant, shall sell, offer for sale, expose for sale, or have in possession with intent to sell, any alcoholic liquor that is adulterated or misbranded within the meaning of this section shall be guilty of a violation of this act. For the purpose of this section alcoholic liquor shall be deemed to be adulterated if it contains any ingredient prohibited by the rules and regulations of the commission. For the purpose of this section alcoholic liquor shall be deemed to be misbranded when not plainly labeled, marked or otherwise designated as shall be prescribed by the rules and regulations of the commission.

Sec. 47. Retailers' license fees, disbursement. The commission shall disburse the proceeds of the retailers' licenses, paid directly to it, quarterly, after deducting not more than fifteen per cent thereof for commission expense, to the city, village or township in which the licensee is located: *Provided, however,* This section shall not include retail license fees collected for railroad or pullman cars, or for watercraft or for aircraft, which license fees shall be disposed of as provided for manufacturers' license fees.

Sec. 48. Handling of moneys. All moneys received by the commission under the provisions of this act, except as herein provided, shall be turned over monthly to the state treasurer, less the actual and necessary expenses of the commission for the preceding month. A monthly report thereof shall be made to the state treasurer which shall contain an itemized account of all moneys received and all expenditures made by the commission during the month covered in the report. The state treasurer shall submit such report to the auditor general for audit, who shall certify on the report as to the audit thereof and return the same to the state treasurer. All moneys received by the commission while under the custody of the commission shall be deposited in a depository designated by the state treasurer.

Sec. 49. Appropriations. All moneys deposited by the commission with the state treasurer, after the payment of the necessary expenses hereinbefore provided for, shall be credited to an emergency fund and are hereby appropriated therefrom for the following purposes:

1. Two thousand dollars to the legislative council to reimburse the council for the expenditures made in studying and preparing this act;

2. One million dollars for the special revolving fund herein provided for;

2a. One hundred thousand dollars for the department of public safety;

3. The balance, unless otherwise appropriated by the legislature, to be loaned by the state administrative board to such public school districts as the said board shall determine to be in emergency need of the same. The state administrative board shall prescribe the terms and manner of the repayment of any such loan and/or may deduct said loan, or any part thereof, from any sum or sums to which the respective school districts may be entitled to receive under the provisions of act number two hundred thirty-six of the public acts of nineteen hundred thirty-three or any other act or source.

The balance, if any, and any and all sums repaid hereunder shall be credited to the old age pension fund.

Any moneys collected or due under the provisions of act number sixty-four of the public acts of nineteen hundred thirty-three, and not heretofore incumbered, shall be transferred and credited to the revolving fund provided for under this act, and shall be credited against the appropriation made thereto in this section.

Sec. 50. Penalties. Any person, other than persons required to be licensed under this act, who shall violate any of the provisions of this act shall be guilty of a misdemeanor.

Any licensee who shall violate any of the provisions of this act, or any rule or regulation of the commission promulgated hereunder, shall be guilty of a misdemeanor, punishable by imprisonment in the county jail not more than six months or by a fine of not more than five hundred dollars, or both, in the discretion of the court.

Any person, who shall do any act for which a license is required under this act, without first obtaining said license or any person who shall sell any alcoholic liquor in any county which shall have prohibited the sale of alcoholic liquor under the provisions of section fifty-seven hereof, shall be guilty of a felony, punishable by imprisonment in the state prison not more than one year or by a fine of not more than one thousand dollars, or both, in the discretion of the court.

It is the intent of the legislature that the court, in imposing punishment under the provisions of this section, should discriminate between casual or slight violations and habitual sales of alcoholic liquor or attempts to commercialize violations of this act or any of the rules or regulations of the commission promulgated hereunder.

Sec. 51. Where for any violation of this act, the license for any premises licensed has been revoked, no license shall be thereafter issued for a period of one year after such revocation, for such licensed premises.

Where for any violation of this act, the license to any person issued under this act or act number sixty-four of the public acts of nineteen hundred thirty-three has been revoked for cause, or who has been convicted of a violation of said act or acts, no license shall be thereafter issued for a period of two years after such revocation, to such person.

Sec. 52. Repeal. Act number three hundred thirty-eight of the public acts of nineteen hundred seventeen, as amended, being sections nine thousand one hundred thirty-eight to nine thousand two hundred nine, inclusive, of the

compiled laws of nineteen hundred twenty-nine; act number sixty-four of the public acts of nineteen hundred thirty-three; section twenty-five of act number two hundred eighty-five of the public acts of nineteen hundred nine, being section eight thousand three hundred forty of the compiled laws of nineteen hundred twenty-nine; sections twenty-seven and twenty-eight of act number one hundred thirty-four of the public acts of eighteen hundred eighty-five as added by act number three hundred thirty-two of the public acts of nineteen hundred five, being sections six thousand eight hundred fifty-three and six thousand eight hundred fifty-four of the compiled laws of nineteen hundred twenty-nine; section three of act number one hundred twenty-three of the public acts of nineteen hundred twenty-one, being section five hundred forty-seven of the compiled laws of nineteen hundred twenty-nine; section eight of act number two hundred sixty-three of the public acts of nineteen hundred seventeen, being section five thousand three hundred ninety-nine of the compiled laws of nineteen hundred twenty-nine; act number three hundred twenty-five of the local acts of nineteen hundred one, and all other acts and parts of acts, general, special or local, and all ordinances and parts of ordinances inconsistent with or contrary to the provisions of this act are hereby repealed.

Sec. 53. Saving clause. This act shall not impair or affect any act done, offense committed or right accruing, accrued or acquired, or penalty, forfeiture or punishment incurred prior to the time this act takes effect, but the same may be enjoyed, asserted, enforced, prosecuted or inflicted, as fully and to the same extent as if this act had not been passed.

Sec. 54. Liberal construction. This act shall be liberally construed to effect the intent and purposes herein set forth.

Sec. 55. Severing clause. Should any provision or section of this act be held to be invalid for any reason, such holding shall not be construed as affecting the validity of any remaining portion of such section or of this act, it being the legislative intent that this act shall stand, notwithstanding the invalidity of any such provision or section.

Sec. 56. Referendum; sale of spirits by the glass. Spirits for consumption on the premises, in addition to beer and wine, may be sold by restaurants and hotels, approved by the commission under this act, in the following cities and villages or townships; when the legislative body of any such city or village or township shall, by resolution of a majority vote of the members

elect, within sixty days after the effective date of this act, vote in favor thereof: *Provided, however,* That within one year from any action taken by such legislative body, or, in case such legislative body shall fail to act within said sixty day period, within one year from the expiration of said sixty day period, and every four years thereafter, a petition signed by not less than twenty per cent of the qualified electors of any such city or village or township of the entire vote cast for the office of secretary of state in such city or village or township, as the case may be, at the last general election, may be filed with the city or village or township clerk, as the case may be, requesting the submission of the question of sale of spirits for consumption on the premises, in addition to beer and wine. The city or village or township clerk, as the case may be, shall call a special election in said city or village or township to be held within sixty days of the filing of such petition. The question of the sale of such spirits for consumption on the premises, in addition to beer and wine, shall be submitted by ballot in substantially the following form:

"Shall the sale of spirits in addition to beer and wine be permitted for consumption on the premises within (the city or village or township as the case may be) of ..... under the provisions of the law governing same?

Yes.....

No....."

All votes on the question shall be taken, counted and canvassed in the same manner as votes cast in city or village or township elections, as the case may be, are taken, counted and canvassed. Ballots shall be furnished by the election commission or similar body of the respective cities or villages or townships. In case a majority of the electors voting at any such election shall vote in favor thereof, spirits may be sold in any such city or village or township, under the provisions of this act, for consumption on the premises, in addition to beer and wine.

Sec. 57. Same; county option. The provisions of this act shall be the law controlling the alcoholic liquor traffic within the state of Michigan, including the manufacture, transportation, possession, wholesale and retail sales thereof, and shall be applicable to and in every county within the state of Michigan: *Provided, however,* That upon the filing with the county clerk of a petition signed by not less than twenty per cent of the qualified electors of any county

of the entire vote cast for the office of secretary of state in such county at the last general election, after ninety days and within one year after this act shall take effect, and once within two years after the expiration of said one year period, and not oftener than once in every four years thereafter, requesting the submission to the electors of such county at a special election of the question of the manufacture and/or sale within such county of alcoholic liquor, the county clerk shall call a special election in such county within sixty days of the filing of any such petition in his office. All votes on the question shall be taken, counted and canvassed in the same manner as votes cast for county offices are taken, counted and canvassed. The vote on such question shall be by ballot which shall be substantially in one of the following forms:

"1. Shall the manufacture of alcoholic liquor be prohibited in the county of ..... under the provisions of the law governing the same?

Yes .....

No .....

2. Shall the sale of alcoholic liquor be prohibited in the county of ..... under the provisions of the law governing the same?

Yes .....

No .....

3. Shall the manufacture and sale of alcoholic liquor be prohibited in the county of ..... under the provisions of the law governing the same?

Yes .....

No ....."

Such ballots shall be furnished by the board of election commissioners of the county.

Alcoholic liquor shall not be manufactured and/or sold in any county in this state in which the electors at any such election shall by a majority thereof vote to prohibit the manufacture and/or sale of alcoholic liquor, as the case may be, in such county. The effective date of prohibiting the manufacture and sale of alcoholic liquor, or either manufacture or sale, shall be thirty days after the board of county canvassers has determined that a majority of those voting on said question have voted in the affirmative thereon. It shall be the duty of the county clerk to give notice of the effective date of such prohibition by publishing said date at least once in a newspaper published

in said county, or, if there be no newspaper published within the county, in a newspaper published in an adjoining county.

This act is ordered to take immediate effect.

Myles F. Gray

Clerk of the House of Representatives.

Don D. Crawford

Secretary of the Senate.

Approved December 15-1933 10:15 P.M.

William A. Comstock

Governor.