

THE NUMBER AND FORM IN WHICH THE QUESTION WILL
APPEAR UPON THE OFFICIAL BALLOT AT THE
GENERAL ELECTION, NOVEMBER 8, 1938,
IS AS FOLLOWS:

Referendum Measure No. 40

THIS MEASURE IS THE ACT PASSED BY THE TWENTY-FIFTH LEGISLATIVE ASSEMBLY IN 1937 AS HOUSE BILL NO. 196 REGULATING, LICENSING AND AUTHORIZING THE SALE OF LIQUOR AT RETAIL FOR CONSUMPTION ON THE PREMISES WHERE SOLD; PROVIDING FOR A LICENSE TAX, LICENSE FEES AND FOR AN EXCISE TAX ON LIQUOR; ALLOCATING THE REVENUE TO BE DERIVED FROM SAID LICENSES AND EXCISE TAXES; PROVIDING FOR LOCAL OPTION IN COUNTIES, AND FOR PENALTIES; REPEALING ACTS AND PARTS OF ACTS IN CONFLICT WITH THIS ACT; AND CONTAINING OTHER PROVISIONS RELEVANT TO THESE.

FOR REFERENDUM MEASURE NO. 40.

Licensing sale of liquor at retail for consumption on premises.

AGAINST REFERENDUM MEASURE NO. 40.

Licensing sale of liquor at retail for consumption on premises.

CHAPTER 84
HOUSE BILL 196

AN ACT TO REGULATE, LICENSE AND AUTHORIZE THE SALE OF LIQUOR AT RETAIL IN THE STATE OF MONTANA; AUTHORIZING, EMPOWERING AND DIRECTING THE MONTANA LIQUOR CONTROL BOARD TO ISSUE RETAIL LIQUOR LICENSES TO PERSONS QUALIFIED UNDER THIS ACT TO SELL LIQUOR AT RETAIL; DEFINING CERTAIN WORDS AND TERMS USED IN THIS ACT; PROVIDING FOR A LICENSE TAX AND FIXING THE AMOUNT OF LICENSE FEES TO BE PAID FOR SAID LICENSE; AUTHORIZING THE MONTANA LIQUOR CONTROL BOARD TO CHARGE AND COLLECT AN EXCISE TAX ON ALL LIQUOR SOLD BY IT; PRESCRIBING THE HOURS DURING WHICH LIQUOR MAY BE SOLD AND THE PLACE, MANNER AND CONDITIONS FOR THE SALE THEREOF; AUTHORIZING THE SALE OF LIQUOR TO LICENSEES BY STATE LIQUOR STORES; PROHIBITING THE SALE AND/OR TRAFFIC IN LIQUOR OTHER THAN PURCHASED AT STATE LIQUOR STORES, AND PROHIBITING THE SALE OF LIQUOR TO MINORS AND OTHER DESIGNATED PERSONS; AUTHORIZING THE MONTANA LIQUOR CONTROL BOARD TO PRESCRIBE AND PROMULGATE RULES AND REGULATIONS WITH STATUTORY EFFECT; PROVIDING FOR THE SUSPENSION AND REVOCATION OF LICENSES; PROVIDING FOR HEARINGS BY THE BOARD AND APPEALS FROM DECISIONS THEREOF; PROVIDING FOR LOCAL OPTION IN THE COUNTIES IN THE STATE AND HOLDING ELECTIONS IN RESPECT THERETO; GRANTING TO THE MONTANA LIQUOR CONTROL BOARD STRICT REGULATION AND CONTROL OF LICENSES AND LICENSEES AND DECLARING THE POLICY OF LAW IN THE SALE OF LIQUOR; PROVIDING FOR ALLOCATION OF REVENUE DERIVED FROM LICENSES AND EXCISE TAXES; DECLARING THIS ACT TO BE AN EMERGENCY MEASURE; AND PROVIDING PENALTIES FOR THE VIOLATION OF THIS ACT.

Be It Enacted by the Legislative Assembly of the State of Montana:

It is hereby declared as the policy of the State that it is necessary to further regulate and control the sale and distribution within the State of alcoholic beverages, and to eliminate certain illegal traffic in liquor now existing and to insure the entire control of the sale of liquor in the Montana Liquor Control Board, it is advisable and necessary, in addition to the operation of the State Liquor Stores now provided by law, that the said Board be empowered and authorized to grant licenses to persons qualified under this Act, to sell liquor purchased by them at State Liquor Stores at retail posted price in accordance with this Act and under rules and regulations promulgated by the said Board, and under its strict supervision and control, and to provide severe penalty for the sale of liquor except by and in State Liquor Stores and by persons licensed under this Act. The restrictions, regulations and provisions contained in this Act are enacted by the Legislature for the protection, health, welfare and safety of the people of the State.

Section 2. The following words and phrases used in this Act shall be given the following interpretation:

1. "Board" means the Montana Liquor Control Board.
2. "Club" means a National Fraternal Organization, except college fraternities, or an association of individuals organized for social purposes and not for profit, with a permanent membership and an existence of two years prior to making application for a license with permanent quarters or rooms.
3. "State Liquor Store" means a liquor store established and operated by the Montana Liquor Control Board under the laws of Montana.
4. "License" means a license issued by the Montana Liquor Control Board to a qualified person, under which it shall be lawful for the licensee to sell and dispense liquor at retail as provided in this Act.
5. "Licensee" means the person to whom a license is issued.
6. "Person" means every individual, co-partnership, corporation, hotel, restaurant, club and fraternal organization, and all licensed retailers of liquor, whether conducting the business singularly or collectively.

7. "Liquor" means all kinds of liquor sold by and/or in a State Liquor Store.

8. "Interdicted person" means a person to whom the sale of liquor is prohibited under the laws of Montana.

9. "Rules and regulations" means rules and regulations made and promulgated by the Montana Liquor Control Board in accordance with the provisions of this Act.

All other words and phrases used in this Act, the definition of which is not herein given, shall be given the ordinary meaning.

Section 3. The Montana Liquor Control Board is hereby empowered, authorized and directed to issue licenses to qualified applicants as herein provided, whereby the licensee shall be authorized and permitted to sell liquor at retail, and upon the issuance of such license the licensee therein named shall be authorized to sell liquor at retail but only in accordance with the rules and regulations promulgated by the said Board and the provisions of this Act. Qualified applicants shall include persons, hotels, clubs, fraternal organizations and railway systems.

Section 4. Each licensee licensed under the provisions of this Act shall pay an annual license fee as follows:

For each license in cities with a population of ten thousand (10,000) or more and within a distance of five (5) miles thereof, outside of an incorporated city or town, Six Hundred Dollars (\$600.00) per annum. For each license in cities with a population of more than five thousand (5,000) and less than ten thousand (10,000) and within a distance of five (5) miles thereof, outside of an incorporated city or town, Four Hundred Fifty Dollars (\$450.00) per annum. For each license in cities with a population of more than two thousand (2,000) and less than five thousand (5,000), Three Hundred Dollars (\$300.00) per annum. For each license in cities, towns and unincorporated villages and towns, with a population of less than two thousand (2,000), Two Hundred Dollars (\$200.00) per annum. Fraternal Organizations One Hundred Dollars (\$100.00) per annum.

For each railway system in the State of Montana, three hundred dollars (\$300.00) per annum.

The license fees herein provided for are exclusive of and in addition to other license fees chargeable in the State of Montana for the sale of liquor, beer and malt beverages.

Section 5. Prior to the issuance of a license as herein provided, the applicant shall file with the Montana Liquor Control Board an application in writing, signed by the applicant, and containing such information and statements relative to the applicant and the premises where the liquor is to be sold, as may be required by the Montana Liquor Control Board. The application shall be verified by the affidavit of the person making the same before a person authorized to administer oaths. If any false statement is made in any part of said application, the applicant, or applicants, shall be deemed guilty of misdemeanor and upon conviction thereof the license, if issued, shall be revoked and the applicant, or applicants, subjected to the penalties provided by law.

Section 6. Upon receipt of an application for a license under this Act, accompanied by the necessary license fee and bond, the Board shall within thirty (30) days thereafter, cause to be made a thorough investigation of all matters pertaining thereto, and shall determine whether such applicant is qualified to receive a license and his premises are suitable for the carrying on of the business, and whether the requirements of this Act and the rules and regulations promulgated by the Board are met and complied with.

Section 7. Any railroad operating a dining and buffet car in connection with regular operated train service desiring a license to sell liquor under the provisions of this Act in said dining and buffet car, shall first apply to the Board for a license so to do, accompanying the application with the license fee herein prescribed. Upon being satisfied from said application, or otherwise, that the applicant is qualified the Board shall issue a license to such railroad for the sale of liquor by such carrier in all of its dining and buffet cars, which shall at all times be prominently displayed in the cars where liquor is served. Upon the payment of the one license fee herein required to be paid, duplicates of said license shall be provided by the Board, to be posted in the different cars operated within the State under the one license.

Section 8. Every license issued under this Act shall set forth the name of the person to whom issued, the location by street and number of the premises where the business is to be carried on under said license, and such other information as the Board shall deem necessary. If issued to a partnership the names of the persons conducting the business. Such license shall be signed by the licensee, shall be non-transferable except and only with the consent of the Board, shall be posted in a conspicuous place on the premises in respect to which it is issued and shall be exhibited to any duly authorized representative of the Board whenever the same is requested. Every license issued under the provisions of this Act is separate and distinct, and no person, except the licensee therein named, shall exercise any of the privileges granted thereunder, and all licenses are applicable only to the premises in respect to which they are issued. All licenses shall expire on January first of each year.

Section 9. No person shall be granted more than one license in any year. No person, club, or fraternal organization shall be entitled to a license under this Act unless such person, club, or fraternal organization shall have a beer license issued under the laws of Montana.

Section 10. No license shall be issued by the Board to:

1. A person who has been convicted of being the keeper or is keeping a house of ill fame.
2. A person who has been convicted of pandering or other crime or misdemeanor opposed to decency and morality, or the laws of the Federal Government or the State of Montana.
3. A person whose license issued under this Act has been revoked for cause.
4. A person who at the time of application for renewal of any license issued hereunder would not be eligible for such license upon a first application.
5. A person who is not qualified or whose premises do not conform to the provisions of this Act, or with the rules and regulations promulgated by the Board.
6. A person who is not a citizen of the United States and who has not been a citizen of the State of Montana for at least five (5) years and who has not been a citizen of the county in which the license is to be issued for at least one (1) year.

Section 11. No licensee shall sell, deliver or give away, or cause or permit to be sold, delivered or given away, any liquor to:

1. Any minor actually under the age of twenty-one (21) years, unless such minor is accompanied by his parent or guardian.
2. Any intoxicated person or any person actually, apparently or obviously intoxicated.
3. A habitual drunkard.
4. An interdicted person.

Section 12. No liquor shall be sold, offered for sale or given away upon any premises licensed to sell liquor at retail during the following hours:

- (a) Sunday, from two a. m. to one p. m.;
- (b) On any other day between two a. m. and eight a. m.;
- (c) On any day of a general or primary election during the hours when the polls are open, excepting bond elections. When any city, or incorporated or unincorporated town has any ordinance further restricting the hours of sale of liquor, such restricted hours shall be the hours during which the sale of liquor at retail shall not be permitted within the jurisdiction of any such city or town.

Section 13. No license shall be granted for any premises which shall be on the same street or avenue and within six hundred feet of a building occupied exclusively as a church, synagogue or other place of worship, or school, except a commercially operated school; the measurements to be taken in a straight line from the center of the nearest entrance of such school, church, synagogue or other place of worship to the center of the nearest entrance of the premises to be licensed; except, however, that no license shall be denied because such restriction may apply to any premises so located which are maintained as a bona fide hotel, restaurant, railway car, club or fraternal organization or society except similar places of business established and in actual operation for one year prior to the passage and approval of this Act.

Section 14. The Board is hereby authorized to sell through its stores all kinds of liquor, wine and cordials kept in stock to licensees licensed under this Act at the posted price thereof in the store in which said liquor is sold. All sales shall be upon a cash basis. The posted price as used herein shall mean the retail price of such liquor as fixed and determined by the Montana Liquor Control Board and in addition thereto an excise tax as in this Act provided.

Section 15. The Montana Liquor Control Board is hereby authorized and directed to charge, receive and collect at the time of the sale and delivery of any liquor as authorized under any provision of the laws of the State of Montana an excise tax at the rate of fifty cents (50c) per gallon or proportional part thereof on all liquor so sold and delivered. The Montana Liquor Control Board shall retain the amount of such excise tax received in a separate account and shall deposit with the State Treasurer, to the credit of the General Fund, such sums so collected and received not later than the tenth day of each and every month.

Section 16. The State Liquor Store shall upon each and every sale of liquor to any licensee, issue a duplicate invoice of the liquor purchased as provided by said Board, a copy of which shall be delivered to the licensee and one copy retained at such store. The invoice shall show the date of purchase, name of employee making the sale, the quantity of of each kind of liquor purchased, the price paid therefor, the name of the licensee and the number of the license, with such other information as may be required by the Board. The Licensee shall keep and retain his duplicate invoice of all purchases made by him from the State Liquor Store, which shall at all times be subject to inspection by the duly authorized officers, agents and employees of the Board.

Section 17. It shall be unlawful for any licensee to sell or keep for sale and/or have on his premises for any purpose whatever, any liquor except that purchased from the State Liquor Store, and any licensee found in possession of, or selling and keeping for sale, any liquor which was not purchased from a State Liquor Store, shall, upon conviction, be fined not less than Five Hundred Dollars (\$500.00) nor more than fifteen hundred dollars (\$1500.00), or by imprisonment for not less than three (3) months nor more than one (1) year, or both such fine and imprisonment, and if the Board shall be satisfied that any such liquor was knowingly sold or kept for sale within the licensed premises by such licensee, or by his agents, servants or employees, it shall be mandatory that said Board immediately revoke the license of said licensee.

Section 18. Any person, who has not been issued a license under this Act, who shall sell or keep for sale any alcoholic liquor, shall be guilty of a felony and upon conviction thereof shall be fined not less than one thousand dollars (\$1000.00) nor more than five thousand dollars (\$5000.00), or be imprisoned in the State Prison for not less than one (1) nor more than five (5) years, or both such fine and imprisonment.

Section 19. It shall be unlawful for any licensee under the provisions of this Act to resell any liquor purchased by such licensee from a State Liquor Store for a sum less than the posted price established by the said store and paid by the licensee therefor.

Section 20. No member or employee of the Board, including those engaged in the sale of liquor at the various State Liquor Stores, shall be directly or indirectly engaged in dealing in liquor whether as owner, part owner, member of a syndicate, share holder or otherwise, whether for his own benefit or in a fiduciary capacity for others.

Section 21. Any sheriff, police officer, or inspector appointed under this Act, who shall find any alcoholic beverages, liquor or moonshine which is kept or held by any person for sale or other disposition in violation of this Act, may forthwith seize and remove the same, and keep the same as evidence, and upon conviction of a person for violation of the provisions hereof, the said liquor and all packages containing the same shall be forfeited to the State of Montana, and in addition the person so violating the law shall be subject to the penalties herein prescribed.

Section 22. For the purpose of the administration of this Act the Board shall make, promulgate and publish such rules and regulations as the said Board may deem necessary for carrying out the provisions of this Act and for the orderly and efficient administration hereof, and except as may be limited or prohibited by law