

CHAPTER 81.

[S. S. B. 121.]

LOCAL OPTION.

AN ACT to provide for the submission to the qualified electors of the question whether the sale of intoxicating liquors shall be licensed or prohibited, providing for the enforcement of the result of the elections hereunder, defining offenses hereunder, and providing penalties therefor.

Be it enacted by the Legislature of the State of Washington:

SECTION 1. For the purpose of an election upon the question of whether the sale of intoxicating liquors shall be permitted as hereinafter provided for, there shall be the following units of territory, to-wit: Each city of the first, second, third or fourth class; each unclassified city having a population of more than one thousand; each county not containing any city of the first, second, third or fourth class, nor any unclassified city having a population of more than one thousand; and that portion, considered as a whole, of each county containing any such city, cities or fourth class towns outside of its or their boundary lines. Each subdivision of territory as above shall be a unit to itself and may vote as such upon the question of the sale of intoxicating liquor within its boundaries.

Units of
territory.

SEC. 2. Within any unit hereinbefore created, a special election may be held upon the question of whether the sale of intoxicating liquor shall be permitted within that unit, upon compliance with the conditions hereinafter prescribed; thereafter no election upon the question of the sale of intoxicating liquor shall be held except on the day of the general county election. In the event that a special election is held in any unit hereunder, no other election under the provisions of this act upon the question of the sale of intoxicating liquor within such unit shall be held prior to the day of the general county election of 1910, and thereafter at the said general election biennially.

Question
submitted,
when.

SEC. 3. Any unit hereby created may hold a special election upon the question of whether the sale of intoxicat-

Special
election.

ing liquor shall be permitted within the boundaries of such unit, upon the filing with the clerk of any city or town unit or the county auditor of any county unit of a petition subscribed by qualified electors of the unit equal in number to at least thirty per cent of the electors voting at the last general election within such unit. Such petition shall designate the unit in which the election is desired to be had, the date upon which the election is desired to be held, and the question that is desired to be submitted. The persons signing such a petition shall state their post-office address, the name of the precinct in which they reside, and in case the subscriber be a resident of a city, the street and house number, if any, of his residence, and the date of signature. Said petition shall be filed not less than sixty days nor more than ninety days prior to the date upon which the election is desired to be held. No signature shall be valid unless the above requirements are complied with, and unless the date of signing the same is less than ninety days preceding the date of filing. No signature shall be withdrawn after the filing of such petition. Every signature appended to such petition shall be presumed to be genuine and validly affixed to such petition unless the genuineness and validity of the names subscribed thereto, or some of them, be attacked by a proper proceeding in a court of competent jurisdiction, by a qualified elector of the unit in which the election is sought to be held, within ten days after the filing of such petition. Any proceeding to test the genuineness or validity of any signature to any such petition shall be speedily heard by the court, and its decision therein shall be conclusive, and no appeal shall lie therefrom. Such petition may consist of one or more sheets and shall be fastened together as one document, filed as a whole, and when filed shall not be withdrawn or added to. Such petition shall be a public document and shall be subject to the inspection of the public. Upon the request of anyone filing such a petition and paying or tendering to the city or town clerk or county auditor one dollar for each one hundred names, or fraction thereof, signed there-

Petition.

Petition
filed, when.

Names can-
not be
withdrawn.

Petition a
public
document.

to, together with a copy thereof, said clerk or county auditor shall immediately compare the original and copy and attach to such copy and deliver to such person his official certificate that such copy is a true copy of the original, stating the day when such original was filed in his office, and said officer shall furnish, upon the demand of any person, a copy of said petition, upon payment of said fees as above provided for.

SEC. 4. Upon the filing of a petition as hereinbefore provided, the city or town clerk or county auditor with whom it is filed shall, in not less than thirty days nor more than sixty days thereafter, cause notice of such election to be given, by publishing in not less than one, nor more than three daily or weekly newspapers having a general circulation in the unit within which the election is desired to be held, a notice stating the question that is to be submitted, the unit in which it is to be submitted, and the date for which the election is called. Such notice shall be published in each consecutive issue of such newspaper thereafter until the date of the election, if the paper in which the publication is made be a weekly paper, and not less than fifteen times, if the paper in which the publication is made be a daily paper. All provisions of the general election law relative to the designation of election officers, printing of ballots and designation of voting places, the conducting of elections and the return and canvass of votes, shall govern any special election held hereunder. The persons filing any such petition, and any organization or organizations opposed to the side represented by the petitioners, may each, within ten days prior to the holding of such election, file with the city or town clerk, if the unit where the election is to be held is a city or town, or with the county auditor, if such unit is a county, the names of two persons, one to act as challenger and one as a watcher at each precinct in the unit, and the challengers and watchers of the opposing interests shall have the right to be present in the polling room and exercise the powers which are conferred upon challengers by law. A certificate

Copies.

Notice of election.

General election provisions apply.

Challengers and watchers.

signed by the city or town clerk or the county auditor, as the case may be, certifying that any person is a challenger or watcher, duly designated as such, for the precinct in which he assumes to act, shall be sufficient evidence of his right to act as such.

Ballot.

SEC. 5. The ballot to be used at any such election shall be of suitable size and proper paper, and shall have at the top thereof the question printed, "Shall the sale of intoxicating liquor be licensed within the (insert the name or description of the city, town or county unit in which the vote is to be taken)?" Immediately below said question shall be placed the alternative answers one above the other:

For license



Against license



Each of said alternatives being followed by a square of convenient size. Persons desiring to vote in favor of licensing the sale of intoxicating liquor within the unit in which the election is to be held shall mark a cross within the square following the words "For license," and those desiring to vote against the licensing of the sale of intoxicating liquor within said unit shall mark a cross in the square following the words "Against license," and the ballots shall be counted accordingly.

Returns.

SEC. 6. The returns of any such election shall be canvassed in the manner provided by law for other city, town or county elections, and after such canvass the city or town clerk or county auditor, as the case may be, shall publicly certify the result of the election, and shall cause notices of such result to be published in some newspaper circulating in the unit in which the election was held, within ten days after said canvass is completed; and shall record in a well bound book, to be kept in his office by him and his successors, the result tabulated by precincts of said vote; and said result may be proved in all courts and in all proceedings by such record or by the official certificate of such city or town clerk or county auditor, and

Result to be published.

where such a record or certificate shows that a majority of the qualified electors voting on said question voted "For license," the same shall be conclusive evidence that the political unit (city, town or county) to which such vote was applicable has voted in favor of licensing the sale of intoxicating liquor, unless the official certificate of the city or town clerk or county auditor shall be reversed after a contest of the election in accordance with the provisions of section 22 of this act. Thereupon, if the majority of the qualified electors voting upon said question at said election shall have voted in favor of the sale of intoxicating liquor within the unit in which the election was held, the sale of intoxicating liquor may be continued under license as theretofore, if it was theretofore licensed and sold within such unit: *Provided*, That no license for the sale of intoxicating liquors shall be granted to any person who is not of good moral character and is not a citizen of the United States; and if the sale of intoxicating liquor was not theretofore licensed within such unit, it shall be within the power of the city or town council or of the board of county commissioners, acting within the provisions and requirements of state laws or city or town charters, as the case may be, to issue licenses for the sale of intoxicating liquor within such unit, but such licenses shall not be granted to be in force earlier than January 1st following the vote at a general county election. If the majority of the qualified electors voting on such question at any such election shall have failed to vote "For license" the same shall be conclusive evidence that the political unit to which such vote was applicable has voted against the sale of intoxicating liquors within such unit, and, thereupon, ninety days after the day of such election, in the case of a special election, and on the first day of January following any general county election at which a vote has been taken under this act, such result shall become operative, and no intoxicating liquor, save as hereinafter provided, shall be sold within that unit until permission so to do be granted at an election held for that purpose under the provisions of this

Licensing
to continue.

Sale pro-
hibited.

Portion of
license fee
returned.

act. When a majority of the qualified electors in any unit wherein intoxicating liquor has theretofore been sold and licenses have been issued by the city council or by the board of county commissioners under existing laws, shall fail to vote in favor of the sale of intoxicating liquor within such unit, upon such vote becoming operative as herein provided, the city or town council or the board of county commissioners, as the case may be, shall return to each person holding a valid, unexpired license for the sale of intoxicating liquor ninety per cent. of the unearned portion of the license fee which shall have been paid to such city, town or county.

General
election.

SEC. 7. At any election which shall be held under this act on the day of the general county election there may be submitted to the qualified electors of any unit the question whether the sale of intoxicating liquor shall be licensed and permitted therein. The method of procuring the submission of such question at any such election shall be the same as that prescribed for procuring the submission of such question at the special election hereinbefore provided for, and all provisions as to the manner of holding the special election, the ballots, the manner of counting the votes, the return and canvass shall, so far as applicable, govern in the submission of such question at the general election. The petition for the submission of such question at the general election shall state the general election at which it is to be submitted. The ballot to be voted upon that question shall be a separate ballot, but the election officers acting at the general election shall act as the election officers upon the election on the submission of such question, but they shall keep the ballots cast on such question in a separate ballot box, and shall make a separate canvass and return of the vote on that question, as though the vote were at a special election: *Provided, however,* That where any special election is held as hereinbefore provided, the question may not be submitted at a general election prior to the time provided in section 2 hereof. The result of the vote upon the question of licensing the sale of intoxicating liquor at any

Separate
ballot.

general election shall be publicly certified and shall have the same effect as hereinbefore prescribed in the case of a special election.

SEC. 8. It shall be the duty of the city or town clerk or the county auditor, as the case may be, to furnish all ballot boxes, ballots, poll books and other necessary supplies for the holding of any special or general election hereunder, and the expense thereof, as well as the expenses of the election officers and other necessary expenses of the election, including all official publications herein required, shall be paid in the same manner that the expenses of general elections in any such city, town or county are paid. Voters at any such election shall have the same qualifications as voters at general elections, and the city clerk shall furnish to the election officers registration books showing the names of persons who are registered to vote thereat.

Expense of
ballot boxes,
etc.

Qualifications
of voters.

SEC. 9. Whenever a majority of the qualified electors voting upon said question in any unit hereinbefore created, at an election held for that purpose, shall have failed to vote "for license" and it shall thereby have been decided by said vote that intoxicating liquor shall not thereafter be sold within that unit, and the city or town clerk or county auditor, as the case may be, shall have made public certificate of the result of such election, it shall not be lawful to grant or issue, or cause to be granted or issued, any license for the sale of intoxicating liquor within said unit; and after the lapse of ninety days from any special election or after the first day of January next following any general county election at which a vote has been taken it shall not be lawful to sell, give away or in any manner dispose of intoxicating liquor, in any quantity whatever, within the limits of the unit in which the election was held: *Provided*, That the words "give away" shall not be construed to prohibit the giving of intoxicating liquor to guests by a person in his private dwelling or private apartments, unless such dwelling or apartments shall become a place of public resort. The phrase "intoxicating liquor" as used in this act shall be construed to include whiskey, brandy, rum,

"Give away."

"Intoxicating
liquor."

wine, ale, beer, or any spirituous, vinous, fermented, malt or any other liquor containing intoxicating properties, whether medicated or not, and which is capable of being used as a beverage, except preparations compounded by a registered pharmacist, the sale of which would not subject him to the payment of the special liquor tax required by the laws of the United States.

SEC. 10. Within ten days after the date when the result of any election under this act has become operative, every retail liquor dealer, except druggists, trafficking personally or by agent within any unit which shall have voted against the licensing of the sale of intoxicating liquor therein, shall remove, or cause to be removed, all intoxicating liquor from his place of business, its appurtenances or dependencies; and failure so to do shall be *prima facie* evidence that such liquor is kept therein for the purpose of being sold, given away or otherwise disposed of in violation of the provisions of this act.

Stock not to be kept in "dry territory."

SEC. 11. Whoever shall, either as principal, agent, clerk or servant, directly or indirectly, sell, barter, exchange, give away or otherwise dispose of any intoxicating liquor in any quantity whatever, within the limits of a unit which has, by its vote, decided against the licensing of the sale of intoxicating liquor, or who shall keep or have in his possession any intoxicating liquor with intent to sell, give away or otherwise dispose of such liquor in violation of the provisions hereof, shall, upon conviction thereof, be fined not less than twenty dollars nor more than two hundred dollars, or be imprisoned in the county jail for not less than ten days nor more than thirty days, or be punished by both such fine and imprisonment. Any person convicted of the violation of any provision of this act who shall subsequently violate any provision hereof shall, upon conviction, be fined not less than one hundred dollars nor more than five hundred dollars, and be imprisoned in the county jail for not less than ten days nor more than ninety days. If thereafter he shall again violate any provision of this act, for such third and each subsequent violation he shall,

Penalty.

Subsequent convictions.

upon conviction thereof, be fined not less than two hundred dollars nor more than one thousand dollars, and be confined in the county jail for not less than three months nor more than one year. Prosecuting attorneys and justices of the peace having knowledge of any previous conviction of any person accused of violating the provisions hereof shall, in preparing warrants, informations or indictments for such offense or offenses, allege such previous conviction therein, and a certified transcript from the docket of any justice of the peace, or a certified copy of the record under seal of the clerk of any court of record, shall be sufficient evidence of any previous conviction or convictions of violations of this act.

Previous conviction to be alleged.

SEC. 12. The giving away, delivering or handling of any intoxicating liquor by any storekeeper at any place of business, or the taking or soliciting of orders, or the making of agreements for the sale or delivery, or for the giving away, of any intoxicating liquor within the limits of a unit which shall have voted against licensing the sale of intoxicating liquor therein, or any other device to evade the provisions hereof, shall be deemed an unlawful sale of intoxicating liquor, and any person guilty thereof shall be punished as provided in the preceding section.

Taking orders.

SEC. 13. All places where intoxicating liquor is sold in violation of the provisions of this act are common nuisances, and may be abated as such, and upon conviction of the keeper of any such place of the sale of intoxicating liquor in violation of the provisions hereof, the court shall order that such nuisance be abated and that such place be closed until the keeper, owner, lessor, lessee or other person occupying the same shall give bond with a sufficient surety to be approved by the court making the order in the penal sum of one thousand dollars, payable to the State of Washington, conditioned that intoxicating liquor will not thereafter be sold therein contrary to the law, and will pay all fines, costs and damages assessed against him for any violation thereof, and in case of violation of any con-

Place where liquor sold common nuisance.

dition of the bond the whole amount may be recovered as a penalty for the use of the county, city or town wherein the premises are situated.

Fines may
be used to
enforce act.

SEC. 14. The county commissioners of any county are hereby authorized to use any part of the penalties collected for the violation of this act for the purpose of employing persons to secure evidence for the enforcement of the same, and when there are no funds available from penalties collected for the violation of this act, the county commissioners or city or town council may appropriate a sum not exceeding two hundred dollars annually from the general fund of the county, city, or town, for the purpose of enforcing its provisions.

Public
decency.

SEC. 15. Any city or town clerk, county auditor, inspector, judge of election, police officer or other officer of the law who shall wilfully refuse or neglect to discharge any duty imposed upon him by the provisions of this act, and any one who signs any petition provided for herein, knowing he is not qualified so to sign, or who files with the city or town clerk or county auditor any petition or sheet or part thereof, knowing that it contains the signature of a person not qualified to sign the same, or any forged or fraudulent signature, or who unlawfully signs such petition, or who receives, requests, demands or gives, offers or promises any reward for the signing or the refraining from signing of any such petition, or who, by treating or giving of intoxicating liquor or anything else of value, or by threats to injure the person or property of another, or by betting or other device, either directly or indirectly influences or attempts to influence anyone to sign or refrain from signing any such petition or to withdraw his name from the same shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not less than twenty dollars nor more than two hundred dollars, or imprisoned in the county jail for not less than ten days nor more than ninety days, or by both such fine and imprisonment, in the discretion of the court. If any person shall be convicted of violating any provision of this section, and shall

Punishment.

subsequently again violate any provisions hereof, he shall, upon conviction thereof, be fined not less than twenty dollars nor more than two hundred dollars, and be imprisoned in the county jail for not less than ten days nor more than ninety days.

SEC. 16. It shall be unlawful for any physician to issue a prescription for intoxicating liquor except in writing or in any case unless such physician has good reason to believe that the person for whom it is issued is actually sick and the liquor is required as medicine. Every prescription for intoxicating liquor shall contain the name and quantity of liquor prescribed, the name of the person for whom prescribed, the date on which the prescription is written and directions for the use of the liquor so prescribed. Every physician issuing a prescription in violation of the provisions of this section shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than fifty dollars nor more than two hundred dollars. Any person who knowingly makes false statements to a physician or druggist for the purpose of wrongfully obtaining intoxicating liquor shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in any sum not less than fifty dollars nor more than two hundred dollars, and imprisoned in the county jail not longer than ninety days.

SEC. 17. Nothing in this act shall be construed to forbid or prevent the sale within any unit which has voted against the sale of intoxicating liquor therein, by a druggist or pharmacist, of liquor upon prescription for medical purposes, or for sacramental purposes, or of alcohol for medicinal, mechanical or chemical purposes only, and any such liquor so sold shall not be drunk upon the premises under any circumstances. Any druggist or pharmacist selling liquor for the purposes above provided shall keep a true and exact record, in a book provided by him for that purpose, in which shall be entered at the time of every sale of intoxicating liquor made by him, or in or about his place of business,

Physician.

Penalty.

False statement to physician.

Liquors may be sold for certain purposes.

to any person whatsoever, the date of the sale, the name of the purchaser, his residence (stating the street and house number if there be such), the kind, quantity and price of such liquor, the purpose for which it is sold, and when the sale is for medicinal purposes the book shall also contain the name of the physician issuing the prescription therefor. Such entry shall be signed by the person purchasing the liquor. Every prescription for the sale of such liquor shall be cancelled by writing the word "cancelled," and the date on which it was presented and filled, and shall be kept on file, and no such prescription shall be filled the second time. This book and all prescriptions for intoxicating liquor filled shall be open to inspection by any prosecuting attorney of the county in which the liquor was sold, judge or justice of the peace having criminal jurisdiction therein, or any sheriff, constable, marshal or other police officer within such county. Any druggist or pharmacist who shall fail to keep such record, or who shall destroy or alter in any way any such record or entry therein, or any prescription filled, or permit or procure the same to be destroyed or altered, or refuse inspection thereof to any person entitled to demand such inspection, or shall fail to cancel any such prescription, or shall refill any prescription, or shall sell intoxicating liquor for medical purposes except on a written prescription, or for sacramental purposes without an order signed by a clergyman, shall, for each such act, be deemed guilty of a misdemeanor, and shall be fined not less than fifty dollars nor more than two hundred and fifty dollars for each such offense: *Provided*, That nothing herein contained shall be construed to prohibit the sale by a druggist or pharmacist of such intoxicating liquor as may be needed by or for a sick person in case of extreme illness where delay may be dangerous to the patient. No druggist or pharmacist who has been convicted of selling intoxicating liquor or of any other act in violation of this section shall thereafter sell intoxicating liquor for any purpose whatsoever, either personally or by agent, for two years within

Prescriptions.

Record of prescriptions open to public inspection.

Druggist violating provision.

Penalty.

Druggist convicted not permitted to sell thereafter.

any unit in which the sale of intoxicating liquor is forbidden, and upon a second conviction for a violation of the provisions of this section such druggist or pharmacist shall forfeit his right to practice pharmacy, and the justice of the peace or superior judge before whom such druggist or pharmacist is convicted of a second violation of this act shall so order, and send a copy of such order to the board of pharmacy, who, upon receipt of such order, shall forthwith revoke such license, and no other license shall be issued by the board of pharmacy to any person so convicted, within one year from the date of such revocation.

SEC. 18. It shall be unlawful for any person, or public or private carrier, to accept or receive for shipment, transportation or delivery to any person or place within any unit in which the sale of intoxicating liquor is forbidden under the provisions of this act, or to carry, bring into or transfer to any other person, carrier or agent, or handle, deliver or distribute in any such unit any intoxicating liquor of any sort or character whatsoever; and whoever shall, either as principal, agent or servant, knowingly violate any of the provisions of this section shall, upon conviction thereof, be fined not less than fifty dollars nor more than five hundred dollars, and upon a subsequent violation of this section, in addition to the fine hereinbefore prescribed, he shall, if a natural person, be imprisoned in the county jail for not less than thirty days nor more than six months: *Provided, however,* That nothing herein contained shall be construed to apply to any individual who may bring into such unit upon his person or as his personal baggage and for his private use intoxicating liquor in quantity not to exceed one gallon of spirituous liquor or one case of malt liquor, nor to physicians or druggists to whom any public carrier may deliver such goods in unbroken packages, nor to deliveries to churches or the proper officers thereof of wine in unbroken packages for sacramental purposes, nor to shipments or deliveries at residences which are not places of business or of public resort, by manufacturers or wholesalers in their own

Shipments
into "dry"
territory
forbidden.

Penalty.

Personal
baggage.

Exceptions.

conveyances, or by any common carrier or otherwise, any unbroken packages of liquor, nor to shipments of liquor in continuous transit to a point outside of such unit, nor to shipments of commercially pure alcohol for mechanical or chemical purposes. This section shall apply to all packages of intoxicating liquor, whether broken or unbroken, and the carrying into or delivery of each such package of intoxicating liquor, regardless of the name by which it may be called, accepted, received, carried, transferred, handled, delivered, or distributed in violation of the provisions of this section, shall constitute a separate offense, and any liquor so carried or delivered shall be forfeited and shall be destroyed by the officer seizing the same: *Provided*, That nothing in this act shall be construed to prohibit the manufacture of intoxicating liquor from the raw material in any no-license unit, nor the delivery of the same.

May make in
"dry" ter-
ritory.

It is further expressly provided that no provision of this section is intended or shall be construed to violate or be in conflict with any provision of the constitution and laws of the United States respecting interstate commerce, but this section and all parts of the same are intended to prohibit the acceptance, receiving, carrying, transferring, handling, delivery or distribution, as herein provided, of intoxicating liquor to such extent only as the same is not expressly permitted under the constitution and laws of the United States.

Interstate
commerce.

If any provision of this section shall be held to be void or unconstitutional, it is hereby provided that all other portions of the same which are not expressly held to be void or unconstitutional shall continue in full force and effect.

Void in part
not to vitiate
whole.

SEC. 19. Prosecutions for violations of this act may be by information or indictment. In any such prosecution it shall not be necessary to state the kind of intoxicating liquor sold, nor to describe the place where sold, nor to show the knowledge of the principal in order to convict for the acts of any agent or servant, nor to state the name of any person to whom such liquor is sold, nor to set forth

Prosecutions;
allegations.

the evidence showing that the required number of qualified electors petitioned for the submission to the electors of the question whether intoxicating liquor should be sold in the unit where the violation is alleged to have occurred, nor that a majority of the qualified electors voted against the sale of liquor within such unit, but in all cases it shall be sufficient to state that the act complained of was committed in a unit in which the sale of intoxicating liquor was prohibited, and that such act was then and there prohibited and unlawful.

SEC. 20. The issuance of an internal revenue special tax stamp or receipt by the United States to any person as a retail dealer in intoxicating liquor at any place within a unit in which at the time of the issuance thereof the sale of intoxicating liquor was forbidden, shall be *prima facie* evidence of the sale of intoxicating liquor by such person at such place, or at any place of business of such person within the unit where such stamp or receipt is posted if, at the time, the stamp or receipt is in force and effect: *Provided*, That this section shall not apply to wholesalers, manufacturers or druggists.

Payment of
internal
revenue
evidence.

A copy of any such stamp or of the records of the United States internal revenue office, certified to by any United States internal revenue officer, or assistant, having charge of such records or stamps, which shows that the United States special liquor tax has been paid by any person charged with selling, giving away or otherwise disposing of intoxicating liquor in violation of this act in any unit in which, at the time of issuance of said special liquor tax stamp, the sale of liquor was prohibited, shall be competent and *prima facie* evidence that the person whose name appears on said records or stamp, as shown by said certified copy, has paid the special liquor tax for the time stated therein.

Copy of
record
sufficient.

SEC. 21. Any city or town which, under the provisions of its charter, may possess the power to vote upon the question of the issuance of licenses for the sale of intoxi-

City charter
may
supersede
this act.

cating liquor within its limits may proceed to secure such vote and the results thereof under the provisions of such charter, or may apply the provisions of this act, as the petitioners in any such city may elect.

Contest of
election.

SEC. 22. That any five qualified electors of any unit in which an election shall have been held as provided for in this act may, within ten days after the canvass of the returns of such election and upon filing a bond for costs in a penalty to be fixed by the presiding judge, and with a surety or sureties to be approved by him, contest the validity of such election by filing a verified petition in the superior court for the proper county in which such unit is situated, setting forth the ground for the contest. Upon the filing of such petition a summons shall forthwith issue from such court, signed by a judge thereof, and shall be served by the sheriff or his deputy of the county in which said unit is situated, addressed to the city or town clerk or county auditor with whom the petition for such election is filed, notifying such clerk or auditor of the filing of such petition and directing him to appear in such court on behalf of such unit at the time named in the summons, which time shall be not less than five nor more than fifteen days after the filing of such petition. The procedure in such cases shall be the same as that provided by law for contesting an election to a public office, so far as the same is applicable. The said court shall have final jurisdiction to hear and determine the merits of such cases. Any qualified elector in the unit in which such election shall have been held may be permitted by the court in its discretion to appear in person or by attorney, in any such contested election case, in defense of the validity of such election.

Who may
defend.

Present pro-
hibitory laws
continued.

SEC. 23. Nothing in this act shall be construed to repeal or affect the operation of any existing laws of the State of Washington, whereby the licensing and sale of intoxicating liquor is prohibited within certain specified areas surrounding certain state institutions and also within one mile outside of each incorporated city or town in the

state, but said prohibitory laws shall continue in full force and effect.

Passed by the Senate February 18, 1909.

Passed by the House March 4, 1909.

Approved March 12, 1909.

CHAPTER 82.

[A. S. B. 4.]

PRIMARY ELECTIONS.

AN ACT relating to, regulating and providing for the nomination of candidates for public office in the State of Washington and providing penalties for the violation thereof, and amending sections 1, 2, 3, 5, 10, 13, 22, 29, 30, 33 and 38 of an act entitled "An act relating to, regulating and providing for the nomination of candidates for public office in the State of Washington, and providing penalties for the violation thereof, and declaring an emergency," approved March 15, 1907, and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

SECTION 1. That section 2 of said act shall be amended to read as follows: Sec. 2. Hereafter, all candidates for elective offices in this state, either state, county, municipal, precinct or congressional, shall be nominated at a direct primary election held in pursuance of this act: *Provided*, That this act shall not be held to refer to special elections for filling the vacancies for unexpired terms, or to election to offices of any city or town of the fourth class or for any school, dike, irrigation or Metropolitan park district or other local improvement election, or for presidential electors, or judges of the supreme court: *Provided further*, That the provisions of this act shall not apply to nominations of candidates for municipal elective offices in cities of the first class which have adopted or may hereafter adopt charters under section 10, article XI of the state constitution, where such charters have provided or may hereafter provide a non-partisan method or methods of nominating candidates for municipal elec-

[Am'd. § 2,
ch. 209, p.
457, L. '07.]

Application
of act.

City charter
may super-
cede act.