

Passed by vote of the people November 2, 1948, at the general election.

Proclamation signed by the Governor December 2, 1948.

CHAPTER 5.

[ Initiative Measure No. 171. ]

INTOXICATING LIQUOR BY THE DRINK.

AN ACT providing for the regulation and control of the sale of intoxicating liquor by the drink; restricting licenses to restaurants, hotels, clubs, certain places on trains, boats and airplanes, and qualified tourist establishments; limiting such licenses to one for each fifteen hundred (1500) of population; prescribing license fees up to one thousand dollars (\$1,000) per annum and surety bond of ten thousand dollars (\$10,000) for payment of penalties; providing terms of office for liquor board members, with removal for cause only; distributing such license fees to the State College and University for medical and biological research; defining terms and repealing conflicting acts.

*Be it enacted by the People of the State of Washington:*

Amendment.

SECTION 1. Chapter 62 of the Laws of 1933, Extraordinary Session, as amended by chapter 217 of the Laws of 1937, as amended by chapter 220 of the Laws of 1941, is amended by adding thereto the following section, to be known as section 23-S-1:

Class H license.

Section 23-S-1. (a) There shall be a retailer's license, to be known and designated as Class H license, to sell beer, wine and spirituous liquor by the individual glass, and beer and wine by the opened bottle, at retail, for consumption on the premises, including mixed drinks and cocktails compounded or mixed on the premises only. Such Class H license may be issued only to bona fide restaurants, hotels and clubs, and to dining, club and buffet cars on passenger trains, and to dining places on passenger boats and airplanes, and to such other establishments operated and maintained primarily for the benefit of tourists, vacationers and travelers as

Those eligible for Class H license.

the Board shall determine are qualified to have, and in the discretion of the Board should have, a Class H license under the provisions and limitations of this act. Discretion of board.

SEC. 2. Chapter 62 of the Laws of 1933, Extraordinary Session, as amended by chapter 217 of the Laws of 1937, as amended by chapter 220 of the Laws of 1941, is amended by adding thereto the following section, to be known as section 23-S-2: Amendment.

Section 23-S-2. (a) "Spirituos liquor," as used in this act, means "liquor" as defined in section 3 of chapter 62 of the Laws of 1933, Extraordinary Session, as amended by chapter 158 of the Laws of 1935, except "wine" and "beer" sold as such. "Spirituos liquor" defined.

(b) "Restaurant," as used in this act, means an establishment provided with special space and accommodations where, in consideration of payment, food, without lodgings, is habitually furnished to the public, not including drug stores and soda fountains: *Provided, however,* That such establishments shall be approved by the Board and that the Board shall be satisfied that such establishment is maintained in a substantial manner as a place for preparing, cooking and serving of complete meals. The service of only fry orders or such food and victuals as sandwiches, hamburgers, or salads shall not be deemed a compliance with this definition. "Restaurant" defined.

(c) "Hotel," "clubs," "wine" and "beer" are used in this act with the meaning defined in section 3 of chapter 62 of the Laws of 1933, Extraordinary Session, as amended by chapter 158 of the Laws of 1935. "Hotel," "clubs," "wine" and "beer" defined.

(d) "Election unit," as used in this act, means any incorporated city or town, or all that portion of any county not included within the limits of incorporated cities and towns. "Election unit" defined.

(e) It shall be unlawful for any Class H licensee to sell liquor to women, except when seated at tables. Selling liquor to women.

SEC. 3. Chapter 62 of the Laws of 1933, Extraor-

Amendment. dinary Session, as amended by chapter 217 of the Laws of 1937, as amended by chapter 220 of the Laws of 1941, is amended by adding thereto the following section, to be known as section 23-S-3:

Schedule of fees. Section 23-S-3. 1. The Class H license shall be issued in accordance with the following schedule of annual fees:

Clubs. (a) The annual fee for said license, if issued to a club, whether inside or outside of incorporated cities and towns, shall be \$300.00.

Within incorporated cities and towns. (b) The annual fee for said license, if issued to any other Class H licensee in incorporated cities and towns, shall be graduated according to the population thereof as follows:

- Incorporated cities and towns of less than 10,000 population; fee \$500.00;
- Incorporated cities and towns of 10,000 and less than 100,000 population; fee \$750.00;
- Incorporated cities and towns of 100,000 population and over; fee \$1,000.00.

Outside incorporated cities and towns. (c) The annual fee for said license when issued to any other Class H licensee outside of incorporated cities and towns shall be: \$1,000; this fee shall be prorated according to the calendar months, or major portion thereof, during which the licensee is open for business, except in case of suspension or revocation of the license.

Dining, club or buffet cars, or boats and airplanes. (d) The fee for any dining, club or buffet car, or any boat or airplane shall be as provided in subsection 4 of this section.

Licenses shall be confined to business districts. 2. The Board, so far as in its judgment is reasonably possible, shall confine Class H licenses to the business district of incorporated cities and towns, and not grant such licenses in residential districts, nor within the immediate vicinity of schools, without being limited in the administration of this subsection to any specific distance requirements.

3. The Board shall have discretion to issue Class H licenses outside of incorporated cities and towns

in the State of Washington. The purpose of this subsection is to enable the Board, in its discretion, to license in areas outside of incorporated cities and towns, establishments which are operated and maintained primarily for the benefit of tourists, vacationers and travelers, and also golf and country clubs, and common carriers operating dining, club and buffet cars, or boats.

Board has discretion outside incorporated cities and towns.

4. Where the license shall be issued to any corporation, association or person operating as a common carrier for hire any dining, club and buffet car or any boat or airplane, such license shall be issued upon the payment of a fee of \$150.00 per annum, which shall be a master license and shall permit such sale upon one such car or boat or airplane, and upon payment of an additional sum of \$5.00 per car or per boat or airplane per annum, such license shall extend to additional cars or boats or airplanes operated by the same licensee within the state, and a duplicate license for each such additional car and boat and airplane shall be issued: *Provided*, That such licensee may make such sales upon cars or boats or airplanes in emergency for not more than five (5) consecutive days without such license: *And provided, further*, That such license shall be valid only while such cars or boats or airplanes are actively operated as common carriers for hire and not while they are out of common carrier service.

Dining, club and buffet cars, or boats and airplanes.

Duplicate license.

Emergency.

Must be actively operating as common carrier.

5. The total number of Class H licenses issued in the State of Washington by the Board shall not in the aggregate at any time exceed one (1) license for each 1,500 of population in the state, determined according to the last available Federal census.

Maximum number of licenses.

6. Notwithstanding the provisions of subsection 5 of this section, the Board shall refuse a Class H license to any applicant if in the opinion of the Board the Class H licenses already granted for the particu-

Number of licenses in a locality within discretion of board.

lar locality are adequate for the reasonable needs of the community.

Licenses issued 90 days after effective date of act.

7. No Class H license shall be issued by the Board until ninety (90) days after the effective date of this act; it being the intent of this subsection that the said 90-day period shall be utilized by the Board for entertaining and passing upon applications for Class H licenses and otherwise preparing to put this act into operation.

Amendment.

SEC. 4. Chapter 62 of the Laws of 1933, Extraordinary Session, as amended by chapter 217 of the Laws of 1937, as amended by chapter 220 of the Laws of 1941, is amended by adding thereto the following section, to be known as section 23-S-4:

Surety bond.

Section 23-S-4. Each application for a Class H license shall be accompanied by a surety bond, issued by any surety company authorized to do business in the State of Washington, in the penal sum of \$10,000.00, said bond to run to the Washington State Liquor Control Board for the payment of any fines and penalties which may, under this act, be levied against the licensee. Said surety bond shall at all times be in effect for the full amount thereof so long as said license shall be in force, and until it is terminated or cancelled, unless said bond shall, upon ten (10) days' written notice to the Board and the Class H licensee, be cancelled by the surety company. Upon any cancellation by the surety company, said Class H license shall be deemed immediately void and cancelled, except as to such fines and penalties as may have been theretofore, or may be thereafter, imposed for any violations of this act, committed prior to the effective date of the cancellation of such surety bond.

Cancellation of bond.

License void.

Amendment.

SEC. 5. Chapter 62 of the Laws of 1933, Extraordinary Session, as amended by chapter 217 of the Laws of 1937, as amended by chapter 220 of the Laws

of 1941, is amended by adding thereto the following section, to be known as section 23-S-5:

Section 23-S-5. Each Class H licensee shall be entitled to purchase any spirituous liquor items saleable under such Class H license from the Board at a discount of not less than fifteen per cent (15%) from the retail price fixed by the Board, together with all taxes.

Purchase of liquor at discount.

SEC. 6. Section 23T of chapter 62 of the Laws of 1933, Extraordinary Session, as added thereto by chapter 217 of the Laws of 1937, being Rem. Rev. Stat., sec. 7306-23T, is hereby amended to read as follows:

Amendment.

Section 23T. No club shall be entitled to a Class H license:

Requirements for clubs.

(a) Unless such club had been in operation at least three (3) years prior to the effective date of this act, or, the club, being thereafter formed, had been in continuous operation for at least one year immediately prior to the date of its application for such license;

Length of time in operation.

(b) Unless the club premises be constructed and equipped, conducted, managed, and operated to the satisfaction of the Board and in accordance with this act and the regulations made thereunder;

Properly constructed and operated.

(c) Unless the Board shall have determined pursuant to any regulations made by it with respect to clubs, that such club is a bona fide club; it being the intent of this section that license shall not be granted to a club which is, or has been, primarily formed or activated to obtain a license to sell liquor, but solely to a bona fide club, where the sale of liquor is incidental to the main purposes of the club, as defined in section 3 of chapter 158, Laws of 1935;

Must be bona fide club.

(d) Each club holding a club license under this section prior to its amendment by this act shall have a period of six (6) months, from and after the

Must apply within 6 months for Class H license.

Old license  
null and  
void.

effective date of this act, to apply for and obtain a Class H license. From and after six (6) months after the effective date of this act, each club license granted under this section prior to its amendment by this act shall be null and void. The Board shall reserve a sufficient number of Class H licenses to license each club which has been in operation for one (1) year prior to the effective date of this act: *Provided*, That such club qualifies therefore under the provisions of this act.

Amendment.

SEC. 7. Section 27A of chapter 62 of the Laws of 1933, Extraordinary Session, as added thereto by section 3, of chapter 217 of the Laws of 1937, being Rem. Rev. Stat., sec. 7306-27A, is hereby amended to read as follows:

Music and  
dancing  
prohibited  
unless  
permitted  
by local  
authorities.

Section 27A. It shall be unlawful for any person, firm or corporation holding any retailer's license to permit or allow upon the premises licensed any music, dancing, or entertainment whatsoever, unless and until permission thereto is specifically granted by appropriate license or permit of the proper authorities of the city or town in which such licensed premises are situated, or the Board of County Commissioners, if the same be situated outside an incorporated city or town: *Provided*, That the words "music and entertainment," as herein used, shall not apply to radios or mechanical musical devices.

Amendment.

SEC. 8. Section 63, chapter 62 of the Laws of 1933, Extraordinary Session, as last amended by chapter 208, Laws of 1945, is amended to read as follows:

Liquor Control Board.

Section 63. There shall be a Board, known as the "Washington State Liquor Control Board," consisting of three (3) members, to be appointed by the Governor, with the consent of the Senate, who shall each be paid an annual salary to be fixed by the Governor, not to exceed the highest salary allowed

Salaries.

by the Legislature for any appointive state administrative officer. The Governor may, in his discretion, appoint one of the members as chairman of the Board, and a majority of the members shall constitute a quorum of the Board.

SEC. 9. Section 64, chapter 62 of the Laws of 1933, Extraordinary Session, as last amended by chapter 113, Laws of 1947, is amended to read as follows: Amendment.

Section 64. 1. The members of the Board to be appointed after the taking effect of this act shall be appointed for terms beginning January 15, 1949, and expiring as follows: One member of the Board for a term of three (3) years from January 15, 1949; one member of the Board for a term of six (6) years from January 15, 1949; and one member of the Board for a term of nine (9) years from January 15, 1949. Each of the members of the Board appointed hereunder shall hold office until his successor is appointed and qualified. Upon the expiration of the term of any of the three members of the Board appointed as aforesaid, each succeeding member of the Board shall be appointed and hold office for the term of nine (9) years. In case of a vacancy, it shall be filled by appointment by the Governor for the unexpired portion of the term in which said vacancy occurs. No vacancy in the membership of the Board shall impair the right of the remaining member or members to act, except as herein otherwise provided. Terms of office.

2. The principal office of the Board shall be at the state capitol, and it may establish such other offices as it may deem necessary. Vacancies.

3. Any member of the Board may be removed for inefficiency, malfeasance or misfeasance in office, upon specific written charges filed by the Governor, who shall transmit such written charges to the member accused and to the Chief Justice of the Supreme Offices.

Removal of member of Board for cause.



Tribunal to hear and adjudicate.

Court. The Chief Justice shall thereupon designate a tribunal composed of three judges of the Superior Court to hear and adjudicate the charges. Such tribunal shall fix the time of the hearing, which shall be public, and the procedure for the hearing, and the decision of such tribunal shall be final and not subject to review by the Supreme Court. Removal of any member of the Board by the tribunal shall disqualify such member for reappointment.

Hearing.

No review.

Members of board shall hold no other public office.

4. Each member of the Board shall devote his entire time to the duties of his office and no member of the Board shall hold any other public office. Before entering upon the duties of his office, each of said members of the Board shall enter into a surety bond executed by a surety company authorized to do business in this state, payable to the State of Washington, to be approved by the Governor in the penal sum of Fifty Thousand Dollars (\$50,000.00) conditioned upon the faithful performance of his duties, and shall take and subscribe to the oath of office prescribed for elective state officers, which oath and bond shall be filed with the Secretary of State. The premium for said bond shall be paid by the Board.

Surety bond.

Oath of office.

Amendment.

SEC. 10. Section 77, chapter 62 of the Laws of 1933, Extraordinary Session, as amended by chapter 13, Laws of 1935, is hereby amended to read as follows:

Distribution of funds.

Section 77. Moneys in the liquor revolving fund shall be distributed by the Board at least once every three (3) months in accordance with section 78 hereof: *Provided*, That the Board shall reserve from distribution such amount not exceeding \$500,000.00 as may be necessary for the proper administration of this act: *And provided further*, That all license fees, penalties and forfeitures derived under this act from Class H licenses or Class H licensees shall every three (3) months be disbursed by the Board to the

Reservation of funds.

University of Washington and to Washington State College for medical and biological research only, in such proportions as shall be determined by the Board after consultation with the heads of said state institutions.

Disbursement for medical and biological research.

SEC. 11. Chapter 62 of the Laws of 1933, Extraordinary Session, is amended by adding thereto the following section, to be known as section 78-A:

Amendment.

Section 78-A. The Board shall set aside in a separate account in the Liquor Revolving Fund an amount equal to ten per cent (10%) of its gross sales of liquor to Class H Licensees; and the moneys in said separate account shall be distributed in accordance with the provisions of section 78 of chapter 62, Laws of 1933, Extraordinary Session: *Provided, however,* That no election unit in which the sale of liquor under Class H licenses is unlawful shall be entitled to share in the distribution of moneys from such separate account.

Disbursement of funds under § 78, Ch. 62, Laws of 1933, Ex. Sess.

SEC. 12. Chapter 62 of the Laws of 1933, Extraordinary Session, is amended by adding thereto the following section, to be known as section 83-A:

Amendment.

Section 83-A. Within any unit referred to in section 82, there may be held a separate election upon the question of whether the sale of liquor under Class H licenses, shall be permitted within such unit. The conditions and procedure for holding such election shall be those prescribed by sections 83 through 87 of chapter 62 of the Laws of 1933, Extraordinary Session. Whenever a majority of qualified voters voting upon said question in any such unit shall have voted "against the sale of liquor under Class H licenses," the County Auditor shall file with the Liquor Control Board a certificate showing the result of the canvass at such election; and after ninety (90) days from and after the date of the canvass, it shall not be lawful for licensees to maintain and

Separate election within unit as to whether Class H licenses to be permitted.

operate premises therein licensed under Class H licenses. Elections held under sections 82 to 88 of chapter 62 of the Laws of 1933, Extraordinary Session, shall be limited to the question of whether the sale of liquor by means other than under Class H licenses shall be permitted within such election unit.

Amendment.

SEC. 13. Chapter 62 of the Laws of 1933, Extraordinary Session, is amended by adding thereto the following section, to be known as section 87-A:

Issuance of  
Class H  
licenses in  
election  
units.

Section 87-A. Ninety (90) days after the effective date of this act, Class H licenses may be issued in any election unit in which the sale of liquor is then lawful. No Class H license shall be issued in any election unit in which the sale of liquor is forbidden as the result of an election held under sections 82 through 88 of chapter 62 of the Laws of 1933, Extraordinary Session, unless a majority of the qualified electors in such election unit voting upon this initiative at the general election in November, 1948, vote in favor of this initiative, or unless at a subsequent general election in which the question of whether the sale of liquor under Class H licenses shall be permitted within such unit is submitted to the electorate, as provided in section 83-A of this act, a majority of the qualified electors voting upon such question vote "for the sale of liquor under Class H licenses."

Class H  
licensee may  
sell beer,  
wine and  
spirituous  
liquor.

SEC. 14. Notwithstanding any provisions of chapter 62 of the Laws of 1933, Extraordinary Session, as last amended, or of any provisions of any other law which may otherwise be applicable, it shall be lawful for the holder of a Class H license to sell beer, wine and spirituous liquor in this state in accordance with the terms of this act.

SEC. 15. For the purpose of carrying into effect the provisions of this act, the Board shall have the same power to make regulations not inconsistent

with the spirit of this act as is provided by section 79 of chapter 62 of the Laws of 1933, Extraordinary Session.

Power  
to make  
regulations.

SEC. 16. All acts or parts of acts in conflict here with are hereby repealed.

Repealing  
clause.

SEC. 17. If any section or provision of this act shall be adjudged to be invalid, such adjudication shall not affect the validity of the act as whole or any section, provision, or part thereof not adjudged to be invalid.

Partial  
invalidity.

SEC. 18. This act is necessary for the preservation of the public peace, health and safety, the promotion of the public welfare, and the support of the State Government and its existing institutions, and shall take effect at the earliest time permitted by Amendment 7 to the Constitution of the State of Washington.

Emergency.

Filed in the office of the Secretary of State January 19, 1948.

Passed by the vote of the people November 2, 1948, at the general election.

Proclamation signed by the Governor December 2, 1948.