

Department of Corporations and Taxation.

The appropriation made by Item 149 of chapter one hundred and sixty-two of the acts of the present year is hereby transferred and made a part of the appropriation made by Item 317 of said chapter one hundred and sixty-two.

SECTION 4. This act shall take effect upon its passage.

Approved June 30, 1934.

AN ACT MAKING ADDITIONAL SUNDRY CHANGES IN THE LAWS
RELATING TO ALCOHOLIC BEVERAGES.

Chap. 385

Whereas, The deferred operation of this act would tend to defeat its purpose, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Emergency
preamble.

Be it enacted, etc., as follows:

SECTION 1. Section one of chapter one hundred and thirty-eight of the General Laws, as amended by section one of chapter one hundred and twenty-one of the acts of nineteen hundred and thirty-four, is hereby further amended by striking out the eighth paragraph, as printed in section two of chapter three hundred and seventy-six of the acts of nineteen hundred and thirty-three, and inserting in place thereof the following:—

G. L. (Ter.
Ed.). 138,
§1, etc.,
amended.

“Club”, a corporation chartered for any purpose described in section two of chapter one hundred and eighty, whether under federal or state law, including any body or association lawfully operating under a charter granted by a parent body so chartered, and including also any organization or unit mentioned in clause twelfth of section five of chapter forty, owning, hiring, or leasing a building, or space in a building, of such extent and character as may be suitable and adequate for the reasonable and comfortable use and accommodation of its members; provided, that its affairs and management are conducted by a board of directors, executive committee, or similar body chosen by the members at its annual meeting, and that no member or any officer, agent or employee of the club is paid, or directly or indirectly receives in the form of salary or other compensation, any profits from the disposition or sale of alcoholic beverages beyond the amount of such salary as may be fixed and voted annually within two months after January first in each year by the members or by its directors or other governing body and as shall in the judgment of the local licensing authorities and the commission be reasonable and proper compensation for the services of such member, officer, agent or employee. Such club shall file with the local licensing authorities and the commission annually within three months after January first in each year a list of the names and residences of its officers, together with the amount of salary or compensation received by each employee engaged in the handling or selling of alcoholic beverages.

“Club”
defined.

G. L. (Ter. Ed.), 138, §4, etc., amended.

Licensing boards, appointment, etc.

SECTION 2. Section four of said chapter one hundred and thirty-eight, as appearing in section two of chapter three hundred and seventy-six of the acts of nineteen hundred and thirty-three, is hereby amended by inserting after the word "mayor" in the third line the words:—, subject to confirmation by the board of aldermen or, if there is no such board, by the city council,— so as to read as follows:— *Section 4.* In each city which is not exempt by the provisions of section ten there shall be a licensing board appointed by the mayor, subject to confirmation by the board of aldermen or, if there is no such board, by the city council, consisting of three persons, who shall not be engaged, directly or indirectly, in the manufacture or sale of alcoholic beverages, who have been residents of the city in which they are appointed for at least two years immediately preceding their appointment, and who shall not hold any other public office except that of notary public and justice of the peace. One member shall be appointed from each of the two leading political parties and the third member may also be appointed from one of said parties. If any member of said board engages directly or indirectly in such manufacture or sale, his office shall immediately become vacant.

G. L. (Ter. Ed.), 138, §12, etc., amended.

Granting of licenses.

SECTION 3. Said chapter one hundred and thirty-eight is hereby amended by striking out section twelve, as most recently amended by sections one and two of chapter three hundred and seventy of the acts of nineteen hundred and thirty-four, and inserting in place thereof the following:— *Section 12.* A common victualler duly licensed under chapter one hundred and forty to conduct a restaurant, an innholder duly licensed under said chapter to conduct a hotel and a keeper of a tavern as defined by this chapter, in any city or town wherein the granting of licenses to sell all alcoholic beverages or only wines and malt beverages, as the case may be, is authorized by this chapter, subject however, in the case of a tavern, to the provisions of section eleven A, may be licensed by the local licensing authorities, subject to the prior approval of the commission except as provided in section twenty-three, to sell to travelers, strangers and other patrons and customers not under twenty-one years of age, such beverages to be served and drunk, in case of a hotel or restaurant licensee, only in the dining room or dining rooms and in such other public rooms or areas of a hotel as the local licensing authorities may deem reasonable and proper, and approve in writing, and, in the case of a hotel, restaurant or tavern licensee, only served to and drunk by patrons sitting at tables or sitting at counters equipped with stools; provided, that no alcoholic beverage shall be served to or drunk by a woman in a tavern; and provided, further, that no tavern license shall be granted to the holder of a hotel license hereunder. Such sales may also be made by licensed innholders to registered guests occupying private rooms in their hotels. During such time as the sale of such alcoholic beverages is authorized in any city or town under this chapter,

the authority to grant innholders' and common victuallers' licenses therein under chapter one hundred and forty shall be vested in the local licensing authorities.

If a license granted under this section to a person holding a license as an innholder or common victualler is suspended or revoked for any particular cause, no action shall be taken on account thereof by such authorities with respect to such innholder's or common victualler's license prior to the expiration of the period provided for an appeal under section sixty-seven in case no such appeal is taken, or prior to the disposition of any such appeal so taken, nor thereafter, except for further cause, in case such disposition is in favor of the appellant. Any club in any city or town wherein the granting of licenses to sell alcoholic beverages, or only wines and malt beverages, as the case may be, is authorized under this chapter may be licensed by the local licensing authorities, subject to the approval of the commission, to sell such beverages to its members only, and also, subject to regulations made by the local licensing authorities, to guests introduced by members, and to no others; provided, that such beverages shall be served to and drunk by members or guests only sitting at tables or sitting at counters equipped with stools.

The local licensing authorities may determine in the first instance, when originally issuing and upon each annual renewal of licenses under this section, the amount of the license fee, in no case less than two hundred and fifty nor, except as hereinafter provided, more than seven hundred and fifty dollars for a tavern license or twenty-five hundred dollars for any other license hereunder for the sale of all alcoholic beverages, and in no case less than one hundred nor, except as hereinafter provided, more than one thousand dollars for the sale of wines and malt beverages only; provided, that the minimum license fee in the case of a club license for the sale of all alcoholic beverages shall be one hundred dollars. Before issuing a license to any applicant therefor under this section, or before a renewal of such license, the local licensing authorities shall cause an examination to be made of the premises of the applicant to determine that such premises comply in all respects with the appropriate definition of section one and that the applicant is not less than twenty-one years of age and a person of good character in the city or town in which he seeks a license hereunder.

The local licensing authorities may accept the surrender of a license issued under this section and may issue in place thereof to the same licensee any other form of license authorized under this section, and may allow as a credit on the fee for the new license the license fee paid for the license surrendered but no refund shall be authorized. Different licenses issued as aforesaid for any portion of the same license year to the same licensee shall count as one license for the purposes of section seventeen.

The hours during which sales of such alcoholic beverages may be made by any licensee as aforesaid shall be fixed by the

local licensing authorities either generally or specially for each licensee; provided, that no such sale shall be made on any day between the hours of two and eight o'clock ante meridian and that, except as provided in section thirty-three, no such licensee shall be barred from making such sales on any day after eleven o'clock ante meridian and before eleven o'clock post meridian, and that no tavern shall be kept open on any day after eleven o'clock post meridian.

No person, firm, corporation, association or other combination of persons, directly or indirectly, or through any agent, employee, stockholder, officer or other person, or any subsidiary whatsoever, licensed under the provisions of section fifteen, eighteen or nineteen shall be granted a license under this section.

No licensee under this section, or any employee of such licensee, shall serve any alcoholic beverage to any customer or other person in the licensed premises without charge.

In cities and towns which vote to authorize under section eleven the granting of licenses for the sale of all alcoholic beverages, specific licenses may nevertheless be granted under this section for the sale of wines or malt beverages only, or both. The licensing authorities may refuse to grant licenses under this section in certain geographical areas of their respective cities or towns, where the character of the neighborhood may warrant such refusal.

Possession on the licensed premises by a licensee under this section for the sale of wines or malt beverages only, or both, of any alcoholic beverage other than one that he is authorized to sell under such license shall be prima facie evidence that such other beverage is kept for sale in violation of this chapter.

All malt beverages sold by a licensee under this section containing not more than three and two tenths per cent of alcohol by weight shall be expressly sold as such.

SECTION 4. Section thirteen of said chapter one hundred and thirty-eight, as so appearing, is hereby amended by striking out the last two sentences.

SECTION 5. Section fifteen of said chapter one hundred and thirty-eight, as so appearing and as amended by section four of chapter three hundred and seventy of the acts of nineteen hundred and thirty-four, is hereby amended by striking out, in the twenty-first and twenty-second lines as printed in said section two of said chapter three hundred and seventy-six, the words "after investigation" and also by striking out the last three sentences of the first paragraph and inserting in place thereof the following: — Every licensee hereunder shall keep conspicuously posted in each room where any alcoholic beverages are sold a price list of such beverages but shall not display any price list or matter relating to the prices of beverages sold therein, in the windows or in any other place where visible from outside the licensed premises. Sales by such licensees shall be made only in the original manufacturer's or wholesaler's and importer's pack-

G. L. (Ter. Ed.), 138, §13, etc., amended.

G. L. (Ter. Ed.), 138, §15, etc., amended.

Licenses for sale, etc., not to be drunk on the premises.

age. All malt beverages containing not more than three and two tenths per cent of alcohol by weight shall be so labelled.

SECTION 6. Said chapter one hundred and thirty-eight is hereby further amended by striking out section sixteen A, as so appearing, and inserting in place thereof the following: — *Section 16A.* The holder of a license under section twelve or fifteen who applies prior to December first in any licensing period for a license of the same class for the next succeeding licensing period shall be prima facie entitled thereto if the number of such licenses issuable under section seventeen is not less than the number of such holders so applying. If in any year the number of such licenses so issuable is less than the number of holders so applying, such applicants shall be prima facie entitled to a renewal in the order of the dates of their respective applications, to the extent that the same are issuable under section seventeen. Any such application may, however, be rejected for cause, subject to appeal under section sixty-seven. A person whose application has so been rejected by the local licensing authorities shall for the purposes of section seventeen be deemed to have been granted such a license until the period for such an appeal has expired or until his appeal has been dismissed.

G. L. (Ter. Ed.), 138, §16A, etc., amended.

Limitation of licenses.

SECTION 7. Section seventeen of said chapter one hundred and thirty-eight, as amended by chapter eighty-three of the acts of the current year, is hereby further amended by striking out, in the eleventh line as printed in section two of chapter three hundred and seventy-six of the acts of nineteen hundred and thirty-three, the word "fifteen" and inserting in place thereof the words:— twelve of classes limited in number hereunder and also two licenses under section fifteen, — so that the second proviso will read as follows:— and provided, further, that the licensing authorities in any town may grant two licenses under section twelve of classes limited in number hereunder and also two licenses under section fifteen, irrespective of population.

G. L. (Ter. Ed.), 138, §17, etc., amended.

Number of licenses.

SECTION 8. Section eighteen of said chapter one hundred and thirty-eight, as so appearing, is hereby amended by inserting after the first paragraph the following two new paragraphs:—

G. L. (Ter. Ed.), 138, §18, etc., amended.

Sales of wines and malt beverages may be made in kegs, casks or barrels by any licensee under this section to licensees authorized to sell such beverages under section twelve, thirteen or fourteen and for the sole purpose of resale in the containers in which the same were delivered, to licensees under section fifteen. No licensee under section fifteen shall resell beverages delivered to him in kegs, casks or barrels under this section, except in such containers.

Wholesalers' and importers' licenses.

Every licensed wholesaler and importer of alcoholic beverages shall keep such records in such detail and affording such information as the commission may from time to time prescribe, and shall file with the commission, whenever and as often as it may require, duplicates of copies of such records; and the commission shall at all times, through its designated

officers or agents, have access to all books, records and other documents of every licensed wholesaler and importer relating to the business which he is licensed hereunder to conduct.

G. L. (Ter. Ed.), 138, §19, etc., amended.

SECTION 9. The second paragraph of section nineteen of said chapter one hundred and thirty-eight, as so appearing, is hereby amended by striking out all after the word "manufacturer" in the fourteenth line thereof and inserting in place thereof the following: — licensed under this section to licensees authorized to sell such beverages under section twelve, thirteen or fourteen and, for the sole purpose of resale in the containers in which the same were delivered, to licensees under section fifteen. No licensee under section fifteen shall resell beverages delivered to him in kegs, casks or barrels under this section, except in such containers, — so as to read as follows: —

Licenses to manufacture alcoholic beverages.

Subject to such regulations as may be prescribed by the commission, licensees under this section may rectify or blend, but only upon such premises and under such conditions as the commission shall approve, alcoholic beverages manufactured by them. All alcoholic beverages sold by any manufacturer thereof shall be sold and delivered in such manner, and under such conditions, and with such labels or other marks to identify the manufacturer, as the commission shall from time to time prescribe by regulations; provided, that sales of such beverages may be made in kegs, casks, barrels or bottles, to holders of wholesalers' and importers' licenses; and provided, further, that sale of wines and malt beverages may be made in kegs, casks or barrels by any manufacturer licensed under this section to licensees authorized to sell such beverages under section twelve, thirteen or fourteen and, for the sole purpose of resale in the containers in which the same were delivered, to licensees under section fifteen. No licensee under section fifteen shall resell beverages delivered to him in kegs, casks or barrels under this section, except in such containers.

G. L. (Ter. Ed.), 138, §19, etc., amended.

SECTION 10. The last paragraph of said section nineteen of said chapter one hundred and thirty-eight, as so appearing, is hereby amended by adding at the end thereof the following: — ; provided, that the license fee for each manufacturer of cider or other alcoholic beverage made from apples shall be such sum as the commission shall deem just and proper, but no such fee shall be collected from any such manufacturer for the making of cider, the sale of which is authorized by section three without a license, — so as to read as follows: —

License fees.

The license fee for each manufacturer of alcoholic beverages, in respect of each plant, shall be such sum, not less than two thousand nor more than five thousand dollars, as under the circumstances of the licensee's probable volume of sales under this section, the capacity of his plant and the location thereof, the commission shall deem just and proper; provided, that the license fee for each manufacturer of cider or other alcoholic beverage made from apples shall be such sum as the commission shall deem just and proper, but no

such fee shall be collected from any such manufacturer for the making of cider, the sale of which is authorized by section three without a license.

SECTION 11. Said chapter one hundred and thirty-eight is hereby further amended by inserting after section nineteen, as so appearing, the following new section: — *Section 19A*. The commission may annually grant to individual citizens of the commonwealth employed as salesmen for licensees under section eighteen or nineteen permits which shall authorize such salesmen on behalf of their employers to solicit orders for alcoholic beverages from any licensee under this chapter, and the fee for each such permit shall be ten dollars. The commission may make and enforce rules and regulations covering the granting of licenses under this section and regulating the exercise of the authority granted under such licenses.

G. L. (Ter. Ed.), 138, new section 19A, added.

Salesmen, licenses of.

Whoever acts as salesman as aforesaid without having a permit hereunder, or whoever having such a permit violates any provision of this section or of any condition or stipulation of his permit, shall be subject to the penalties prescribed by section two.

SECTION 12. Said chapter one hundred and thirty-eight is hereby further amended by striking out section twenty, as so appearing, and inserting in place thereof the following: — *Section 20*. The commission may grant to any holder of a manufacturer's or wholesaler's and importer's license under this chapter a permit to store alcoholic beverages in any city or town, provided that there shall not be granted to such manufacturer or wholesaler and importer, in the aggregate, more than three such permits in the commonwealth, nor more than one such permit in any city or town. A permit so granted to the holder of such a license shall authorize him to transport and deliver such beverages from any place of storage for which he has such a permit upon orders received by him at the premises covered by his manufacturer's or wholesaler's and importer's license and transmitted to the place of storage covered by the permit. The commission may establish annual fees therefor not exceeding five hundred dollars for any one permit.

G. L. (Ter. Ed.), 138, §20, etc., amended.

Storage permits.

Special warehouse permits may be granted by the commission for the storage of alcoholic beverages in a duly licensed bonded warehouse. A special permit so granted shall authorize the holder thereof to transport such beverages between any premises for which he has such special permit and any premises covered by his manufacturer's or wholesaler's and importer's license. The fee for such a special permit shall be not less than fifty nor more than two hundred dollars.

Special seasonal permits may be granted by the commission upon payment of a fee of twenty-five dollars for each such permit, which shall authorize any licensee under section eighteen or nineteen to store malt beverages in the same city or town in which their licensed premises are located; pro-

vided, that such storage shall be in a place properly equipped for the refrigeration of malt beverages and that such an authorization shall be effective only for the period between April first and October thirty-first in any year.

The commission may make and enforce rules and regulations covering the storage and transportation of beverages under permits granted under this section.

SECTION 13. Said chapter one hundred and thirty-eight is hereby further amended by striking out section twenty-one, as so appearing, and inserting in place thereof the following:— *Section 21.* Every licensed manufacturer of alcoholic beverages and every holder of a wholesaler's and importer's license for the sale thereof shall, in addition to the license fees elsewhere provided in this chapter, be liable for and pay to the commonwealth an excise, for the privilege enjoyed by him as such manufacturer or wholesaler and importer, to be levied on sales of alcoholic beverages within the commonwealth as follows:

For each barrel of thirty-one gallons, or fractional part of a barrel aforesaid, of malt beverages, at the rate of one dollar per barrel aforesaid;

For each wine gallon, or fractional part thereof, of wine, including vermouth, at the rate of ten cents per wine gallon;

For each wine gallon, or fractional part thereof, of all other alcoholic beverages containing twenty-four per cent or less of alcohol by volume at sixty degrees Fahrenheit, at the rate of fifteen cents per wine gallon;

For each wine gallon, or fractional part thereof, of all other alcoholic beverages containing more than twenty-four per cent but not more than fifty per cent of alcohol by volume at sixty degrees Fahrenheit, at the rate of forty cents per wine gallon;

For each proof gallon, or fractional part thereof, of all other alcoholic beverages containing more than fifty per cent of alcohol by volume at sixty degrees Fahrenheit, at the rate of forty cents per proof gallon. The words "proof gallon" when used in this section shall be held to be a gallon of alcoholic beverage which contains one half its volume of alcohol of a specific gravity of seven thousand nine hundred and thirty-nine ten thousandths (.7939) at sixty degrees Fahrenheit.

Every person subject to this section shall keep a true and accurate account of all alcoholic beverages sold by him and shall make a return thereof to the commissioner of corporations and taxation, hereinafter called the commissioner, within ten days after the last day of each month, covering his sales during such month, and shall at the time of such return make payment to the commissioner of the amount due under this section for such sales in such month. The commissioner shall assess on the basis of any available information any deficiency in the amount so payable which remains unpaid and shall notify the person so assessed who may within thirty days of the date of the notice make application for abatement thereof. Such assessment may be made at any

G. L. (Ter. Ed.), 138, §21, etc., amended.

Excise.

Returns to be made by licensees.

time within five years after the making of the earliest sale included in such assessment. If the commissioner shall determine that a deficiency so assessed should be abated or, upon application filed within thirty days of the making of the return that an overpayment has been made, he shall certify the amount of such abatement or overpayment to the state treasurer, who shall repay the amount so certified if paid, without further appropriation therefor. The commissioner is hereby authorized to prescribe rules and regulations governing the method of keeping accounts, making returns and paying the excise provided for in this section. Such rules and regulations shall provide for the waiver of payment of the excise in respect to any alcoholic beverages if it appears that an excise has already been paid under the provisions of this section in respect thereto; provided, however, that alcoholic beverages manufactured within or imported into the commonwealth and exported therefrom shall be exempt from such excise tax.

The books, accounts, records and papers of every licensee shall at all times be open to the inspection of the commissioner and his agents and upon summons issued by the commissioner shall be produced at such time and place as he shall designate for the inspection of himself or his agents.

Licensees to
keep records.

If any licensee fails to file a return under this chapter within the time prescribed therein, the sum of five dollars for every day during which such licensee is in default shall be added to, and become a part of the tax, as an additional tax; but the commissioner may, in his discretion, abate any such additional tax in whole or in part.

Whoever files a fraudulent return, and whoever, having failed to file a return or having filed an incorrect or insufficient return without reasonable excuse fails to file a return within twenty days after receiving notice from the commissioner of his delinquency, shall be punished by a fine of not less than one hundred nor more than ten thousand dollars, or by imprisonment for not more than one year, or both.

Sums due to the commonwealth under this section may be recovered by the attorney general in an action brought in the name of the commissioner. The commission may suspend the license of a person subject to this section, at the suggestion of the commissioner, for failure to pay such sums when due. The commissioner shall have the same powers and remedies with respect to the collection of said sums as he has with respect to the collection of income taxes under chapter sixty-two.

Any licensee aggrieved by the refusal of the commissioner to abate, in whole or in part, a tax imposed by this section, may appeal therefrom, within thirty days after the mailing of a notice of the decision of the commissioner, by filing a petition with the clerk of the board of tax appeals. If, on hearing, said board finds that the licensee making the appeal was entitled to an abatement of the tax assessed, it shall make such abatement as it sees fit.

G. L. (Ter. Ed.), 138, §22, etc., amended.

Transportation permits.

SECTION 14. Said chapter one hundred and thirty-eight, as so appearing, is hereby further amended by striking out section twenty-two and inserting in place thereof the following: — *Section 22.* Any person may, but only for his own use and that of his family and guests, transport alcoholic beverages, without any license or permit, but not exceeding in amount, at any one time, eight gallons of malt beverages, or three gallons of any other alcoholic beverages, or their measured equivalents; provided, that any person may, without any license or permit, transport from his place of residence to a new place of residence established by him, wines manufactured by him for his own private use. Licensees for the sale of alcoholic beverages may transport and deliver anywhere in the commonwealth alcoholic beverages lawfully bought by or lawfully sold by them, in vehicles operated under the control of themselves or of their employees; provided, that the owner of every such vehicle shall have obtained for such vehicle from the commission a vehicle permit for the transportation of alcoholic beverages. The fee for each vehicle permit shall be one dollar for each vehicle. Copies of such permits shall be furnished by the commission for one dollar each. All permits issued under this section shall expire on the thirty-first day of December of the year of issue unless earlier suspended or revoked by the commission. Every person operating such a vehicle when engaged in such transportation or delivery shall carry the vehicle permit or a copy thereof for each vehicle operated by him and shall, upon demand of any constable, policeman, member of the state police, or any investigator of the commission or of the registry of motor vehicles, produce such permit or copy for inspection; and failure to produce such permit or copy shall constitute prima facie evidence of unlawful transportation and shall in the discretion of the commission be sufficient cause for the suspension or revocation of such permit. Except as herein provided, alcoholic beverages may be transported within the commonwealth only by a railroad or steamboat corporation, or an individual or corporation regularly and lawfully conducting a general express or trucking business, and in each case holding a transportation permit in full force and effect issued by the commission and valid for one year unless earlier suspended or revoked. The fee for each such transportation permit shall be five dollars, and each vehicle other than a railroad car, used in the transportation of alcoholic beverages under such transportation permit shall carry a certified copy thereof. Each certified copy shall be issued by the commission for a fee of one dollar; provided, that the transportation fee payable by a railroad or steamship company covering all the cars or vessels thereof, shall be one hundred dollars. Whoever knowingly transports within the commonwealth any alcoholic beverages except as authorized by this section shall be punished by a fine not exceeding two hundred dollars or by imprisonment for not more than six months, or both.

SECTION 15. Said chapter one hundred and thirty-eight is hereby further amended by inserting after section twenty-two, as so appearing, the following new section: — *Section 22A*. Upon payment of a fee to be fixed by the commission in each case and subject to such terms and conditions as it may prescribe, it may grant any permit referred to in section two or may grant to any holder or former holder of a license issued by the local licensing authorities who ceases for any reason to conduct the licensed business, or to any suitable individual on his behalf, a permit which shall authorize the holder thereof to sell to any licensee under this chapter any alcoholic beverages the sale of which is or was authorized under his license or former license, or may grant to any person, resident of the commonwealth, lawfully possessing any such beverages a permit which shall authorize him to sell such alcoholic beverages to any licensee under this chapter, or may grant to any individual a permit which shall authorize him to import any alcoholic beverages specified therein which are acquired otherwise than by purchase and are not intended for sale.

G. L. (Ter. Ed.), 138, new section 22A, added.

Special permits for sale of alcoholic beverages.

SECTION 16. Said chapter one hundred and thirty-eight is hereby further amended by striking out section twenty-three, as so appearing and as most recently amended by section six of chapter three hundred and seventy of the acts of nineteen hundred and thirty-four, and inserting in place thereof the following: — *Section 23*. The terms licenses and permits, wherever employed as substantives in this chapter, are used in their technical sense of a license or permit, non-transferable except as otherwise expressly provided in this chapter, and revocable at pleasure and without any assignment of reasons therefor by the granting authority, the commonwealth, acting through the same officers or agents and under the same delegated authority, as authorized the issue of such licenses or permits. The provisions for the issue of licenses and permits hereunder imply no intention to create rights generally for persons to engage or continue in the transaction of the business authorized by the licenses or permits respectively, but are enacted with a view only to meet the reasonable demand of the public for pure alcoholic beverages and, to that end, to provide, in the opinion of the local licensing authorities, an adequate number of places at which the public may obtain, in the manner and for the kind of use indicated, the different sorts of beverages for the sale of which provision is made.

G. L. (Ter. Ed.), 138, §23, etc., amended.

Terms licenses and permits, defined. Expiration of licenses, etc.

No holder of such a license or permit hereunder shall have any property right in any document or paper evidencing the granting of such license or permit and issued by the licensing authorities, and said authorities, upon the expiration, suspension, revocation or cancellation of such a license or permit shall be entitled upon demand to the immediate possession thereof. The superior court shall have jurisdiction in equity, on petition of the licensing authorities, to enforce this provision.

No such licensee or permittee shall have any vested or monetary right in the continuance of his license or permit. Whenever it appears by sale of premises in connection with which a license has been issued, by probate or bankruptcy proceedings, or otherwise, that such license has acquired any monetary value in excess of the license fee, the licensing authorities may increase the amount of the license fee correspondingly, notwithstanding any maximum limitation herein upon fees for that class of licenses, or may take other action deemed by them appropriate to divest the license of such monetary value or to make such value inure to the benefit of the city or town instead of the licensee or his estate or his assigns.

No license issued under section twelve, fourteen or fifteen shall authorize the sale of any alcoholic beverages other than those purchased from a licensee under section eighteen or nineteen or from a holder of a special permit to sell issued under section twenty-two A.

Whenever, in the opinion of the local licensing authorities, any applicant for a license under section twelve, fourteen or fifteen fails to establish to their satisfaction his compliance with the requirements of this chapter, or any other reasonable requirements which they may from time to time make with respect to licenses under said sections respectively, or to the conduct of business by any licensee thereunder, said authorities may refuse to issue or reissue to such applicant any such license; and whenever in their opinion any holder of such a license fails to maintain such compliance or whenever it shall appear to them that the nature of the business, or of the equipment of and service of any hotel, restaurant, club or tavern no longer satisfies the definition thereof contained in this chapter, or that alcoholic beverages are being or have been sold and served therein over, and drunk by customers standing at, a bar or counter, instead of being drunk sitting at tables or sitting at counters equipped with stools in dining or other rooms or quarters as contemplated by or authorized under the provisions of this chapter, they may, after hearing or opportunity therefor modify, suspend, revoke or cancel such license.

Whenever, in the opinion of the commission, any holder of a license or permit originally issuable by it fails to maintain compliance with the requirements of this chapter, or any other reasonable requirements which it may from time to time make with respect to any such license or permit or to the conduct of business by any such licensee or permittee, it may, after hearing or opportunity therefor, modify, suspend, revoke or cancel such license or permit.

In case of modification, suspension, revocation or cancellation of a license issued by the licensing authorities or of a permit issued by the commission, no abatement or refund of any part of the fee paid therefor shall be made.

All licenses and permits granted under this chapter, unless otherwise provided therein, shall expire on the thirty-first day

of December of the year of issue, subject, however, to cancellation or revocation within such term; provided, that the licensing authorities may, when first issuing licenses under this chapter, provide that they shall be temporary only for such less period than the period ending the thirty-first day of December in the year nineteen hundred and thirty-four as the licensing authorities may determine in order to enable said authorities to make such further and more complete investigation of the fitness of applicants to whom such temporary licenses are issued, as to the premises in which the licensee's business is to be conducted, and for any other purposes deemed by the licensing authorities material.

In the case of the death of the holder of any license under this chapter, such license, unless earlier surrendered or revoked, shall authorize the executor or administrator of the deceased licensee to exercise all authority conferred upon such licensee by such license until the termination thereof.

The provisions of sections twelve and fifteen requiring the prior approval of the commission to the granting of licenses thereunder shall not apply to licenses first granted under said sections; but no such license not approved by the commission on or before the first day of July, nineteen hundred and thirty-four, shall be valid after said date until so approved, and if disapproved by the commission prior to said date shall thereupon become void. The fee for licenses first granted under said sections, if for the entire calendar year nineteen hundred and thirty-four and for any additional period prior to January first of said year, shall not be increased by reason of said additional period.

The holder of a license first granted in the year nineteen hundred and thirty-four under section twelve or fifteen which is disapproved by the commission under this section shall be entitled to a rebate of that part of the fee paid therefor proportionate to the unexpired term of the license, and authority is hereby granted to any city or town from whose treasury such a rebate is payable to pay the same from any available funds.

SECTION 17. Section thirty-six of said chapter one hundred and thirty-eight, as so appearing, is hereby amended by inserting after the word "contain" in the twelfth line the following: — and, if the commission so requests, of the composition and quality of such beverages as shown by the samples submitted, — so as to read as follows: — *Section 36.* The analyst or assistant analyst of the department of public health shall upon request make, free of charge, an analysis of all alcoholic beverages sent to it by the licensing authorities or by police officers or other officers authorized by law to make seizures of alcoholic beverages, if the department is satisfied that the analysis requested is to be used in connection with the enforcement of the laws of the commonwealth. The said department shall return to such police or other officers, as soon as may be, a certificate, signed by the analyst or assistant analyst making such analysis, of the percentage

G. L. (Ter. Ed.), 138, §36, etc., amended.

Analysis of alcoholic beverages by state department of public health.

of alcohol which such samples of beverages contain, and, if the commission so requests, of the composition and quality of such beverages as shown by the samples submitted. Such certificate shall be prima facie evidence of the composition and quality of the alcoholic beverages to which it relates, and the court may take judicial notice of the signature of the analyst or the assistant analyst, and of the fact that he is such.

G. L. (Ter. Ed.), 138, § 37, etc., amended.

Certificate to accompany sample.

SECTION 18. Said chapter one hundred and thirty-eight is hereby further amended by striking out section thirty-seven, as so appearing, and inserting in place thereof the following: — *Section 37.* A certificate shall accompany each sample of beverages sent for analysis by an officer to the department of public health stating by whom the beverages were seized, the date of the seizure and the name and residence of the officer who seized said beverages. Said department shall note upon said certificate the date of the receipt and the analysis of said alcoholic beverages and the percentage of the alcohol or the composition and quality of said beverages, as the case may be, as required by the preceding section. Said certificate shall be in the following form: —

ss. CITY OF (OR TOWN OF) 19 .

To the Department of Public Health.

SIRS: — I send you herewith a sample of taken from alcoholic beverages seized by me (date) 19 .

Ascertain the percentage of alcohol it contains or the composition and quality thereof, as the case may be, and return to me a certificate herewith upon the annexed form.

Member or Authorized Employee of the Alcoholic Beverages Control Commission

Constable of Police Officer of

COMMONWEALTH OF MASSACHUSETTS. DEPARTMENT OF PUBLIC HEALTH, BOSTON, 19 .

This is to certify that the received by this department with the above statement and analyzed by me contains per cent of alcohol or is composed of the following constituents in the following percentages and that its quality is

Received 19 . Analysis made 19 .

DEPARTMENT OF PUBLIC HEALTH, By.....

Analyst.

G. L. (Ter. Ed.), 138, § 63, etc., amended.

SECTION 19. Section sixty-three of said chapter one hundred and thirty-eight, as so appearing, is hereby amended by striking out the first sentence and inserting in place thereof

the following: — The local licensing authorities or their agents may at any time enter upon the premises of a person who is licensed by them, and the commission or its agents may enter upon the premises of any person licensed under this chapter, to ascertain the manner in which such licensee conducts his business.

Local
licensing
authorities
may enter
premises.

SECTION 20. Said chapter one hundred and thirty-eight is hereby further amended by striking out section sixty-four, as so appearing, and inserting in place thereof the following: — *Section 64.* The licensing authorities after notice to the licensee and reasonable opportunity for him to be heard by them, may modify, suspend, revoke or cancel his license upon satisfactory proof that he has violated or permitted a violation of any condition thereof, or any law of the commonwealth. If the license is revoked, the licensee shall be disqualified to receive a license for one year after the expiration of the term of the license so revoked, and if he is the owner of the premises described in such revoked license, no license shall be issued to be exercised on said premises for the residue of the term thereof.

G. L. (Ter.
Ed.), 138,
§64, etc.,
amended.

Forfeiture of
license.
Hearing.

If it appears to the commission that a license has been issued under this chapter by the local licensing authorities in excess of the quota prescribed by section seventeen or in violation of section sixteen A or any other provision of this chapter, the commission shall, after notice to said authorities and to the holder of such license and after reasonable opportunity for them to be heard by it, revoke such license, whereupon such license shall be surrendered to said authorities, and the decision of the commission shall be final and conclusive. The holder of a license so revoked shall not be subject to prosecution for any sales theretofore made by him under such license on the ground that such license was illegally issued. The city or town whose licensing authorities issued any license so revoked shall forthwith refund to the holder thereof the entire fee paid therefor and authority is hereby granted to such city or town to pay the same out of any funds available.

SECTION 21. Section sixty-seven of said chapter one hundred and thirty-eight, as so appearing, is hereby amended by striking out, in the eighteenth and nineteenth lines, the words "revoke or modify" and inserting in place thereof the words: — modify, suspend, revoke or cancel, — so as to read as follows: — *Section 67.* Any applicant for a license who is aggrieved by the action of the local licensing authorities in refusing to grant the same or by their failure to act within the period of thirty days limited by section sixteen B, or any one who is aggrieved by the action of such authorities in suspending, cancelling, revoking or declaring forfeited the same, may appeal therefrom to the commission within five days following notice of such action or the expiration of said period, and the decision of the commission shall be final; but pending a decision on the appeal, the action of the local licensing authorities shall have the same force and effect as

G. L. (Ter.
Ed.), 138,
§67, etc.,
amended.

Appeal on
refusals, etc.,
to grant
license.

if the appeal had not been taken. Upon the petition of twenty-five persons who are taxpayers of the city or town in which a license has been granted by such authorities or registered voters in the voting precinct or district wherein the licensed premises are situated, or upon its own initiative, the commission may investigate the granting of such license and may, after a hearing, modify, suspend, revoke or cancel such license if, in its opinion, circumstances warrant.

If the local licensing authorities fail to grant a license or to perform any other act when lawfully ordered so to do by the commission upon appeal or otherwise, within such time as it may prescribe, the commission may itself issue such license or perform such act, with the same force and effect as if granted or performed by the local licensing authorities.

G. L. (Ter. Ed.), 138, §76, etc., amended.

Fee for certain licenses to dealers in paints, etc.

G. L. (Ter. Ed.), 138, §27, etc., amended.

Certain receipts from licenses, etc., to be used to reimburse cities and towns.

SECTION 22. Section seventy-six of said chapter one hundred and thirty-eight, as so appearing and as amended by section two of chapter three hundred and seventy-two of the acts of the current year, is hereby amended by striking out the next to the last sentence and inserting in place thereof the following:— The fee for a license issued by the commission hereunder shall be not less than three hundred nor more than five hundred dollars.

SECTION 23. Section twenty-seven of said chapter one hundred and thirty-eight, as so appearing and as amended by section one of chapter three hundred and one of the acts of the current year, is hereby further amended by inserting after the word "chapter", the third time such word appears in said section as so amended, the words:— , and any balance remaining shall be used to reimburse cities and towns for assistance to said aged persons and be distributed on the same basis.

Approved June 30, 1934.

Chap.386 AN ACT TO APPORTION AND ASSESS A STATE TAX OF TEN MILLION DOLLARS.

Emergency preamble.

Whereas, A delay in the taking effect of this act would cause great inconvenience in the collection of the state tax, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted, etc., as follows:

State tax apportioned and assessed.

SECTION 1. Each city and town in the commonwealth shall be assessed and pay the sum with which it stands charged in the following schedule, that is to say:—

Abington, ninety-three hundred dollars . . .	\$9,300 00
Acton, fifty-seven hundred dollars . . .	5,700 00
Acushnet, fifty-three hundred dollars . . .	5,300 00
Adams, nineteen thousand one hundred dollars .	19,100 00
Agawam, thirteen thousand seven hundred dollars .	13,700 00
Alford, four hundred dollars . . .	400 00
Amesbury, seventeen thousand dollars . . .	17,000 00