

## TITLE 27—INTOXICATING LIQUORS

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### CHAPTER 1—GENERAL PROVISIONS

#### EFFECT OF 21ST AMENDMENT; EXTENT OF REPEAL OF TITLE II OF NATIONAL PROHIBITION ACT

Act Oct. 28, 1919, ch. 85, 41 Stat. 305, as amended and supplemented, known as the National Prohibition Act, was included in chapters 1, 2, 3, and 4 of this title. Such provisions of that act and subsequent legislation as were dependent upon the 18th Amendment to the United States Constitution became inoperative by adoption of the 21st Amendment to the Constitution on Dec. 5, 1933, repealing the 18th Amendment.

Sections 2 to 5 of this chapter (acts Oct. 28, 1919, ch. 85, §1, 41 Stat. 307; Nov. 23, 1921, ch. 134, §§3, 5, 42 Stat. 223) and sections 11 to 40, 44 to 57, 61, 62, and 64 of chapter 2 (acts Oct. 28, 1919, ch. 85, §§2 to 39, 41 Stat. 308 to 319; Nov. 23, 1921, ch. 134, §§2, 5, 42 Stat. 222, 223; Mar. 31, 1933, ch. 18, §§1 to 3, 48 Stat. 23, 24) constituting title II of the National Prohibition Act as amended and supplemented, were repealed to the extent in force in the District of Columbia, Puerto Rico and the Virgin Islands, Hawaii, and Alaska by acts Jan. 24, 1934, ch. 4, §1, 48 Stat. 319; Mar. 2, 1934, ch. 37, §§2, 3, 48 Stat. 361; Mar. 26, 1934, ch. 88, §§2, 3, 48 Stat. 467; and Apr. 13, 1934, ch. 119, §§1, 5, 48 Stat. 583, 584, respectively.

#### §§ 1 to 5. Repealed. Aug. 27, 1935, ch. 740, title I, § 1, 49 Stat. 872

Section 1, act Oct. 28, 1919, ch. 85, §1, 41 Stat. 305, set forth the short title of act as "National Prohibition Act".

Section 2, act Nov. 23, 1921, ch. 134, §3, 42 Stat. 223, provided that this title apply to the United States and all territory subject to its jurisdiction, including the Territory of Hawaii and the Virgin Islands.

Section 3, act Nov. 23, 1921, ch. 134, §5, 42 Stat. 223, authorized all laws relating to the manufacture and taxation of and traffic in intoxicating liquor, and all penalties for violations of such laws that were in force on Oct. 28, 1919, to continue in force, as to both beverage

and nonbeverage liquor, except to the extent provisions of such laws were directly in conflict with provisions of this title.

Section 4, acts Oct. 28, 1919, ch. 85, title II, §1, 41 Stat. 307; Nov. 23, 1921, ch. 134, §1, 42 Stat. 222, defined "liquor" or "intoxicating liquor", "person", "commissioner", "application", "permit", "bond", and "regulation".

Section 5, act Oct. 28, 1919, ch. 85, title II, §1, 41 Stat. 308, provided that any act authorized to be done by the commissioner could be performed by any assistant or agent designated by him for that purpose, and any records required to be filed with the commissioner could be filed with an assistant commissioner or any other person designated to receive such records.

### CHAPTER 2—PROHIBITION OF INTOXICATING BEVERAGES

This chapter, comprising sections 11 to 64, in large measure became inoperative by the adoption of the 21st Amendment to the Constitution. See note preceding sections 1 to 5 of this title.

Repeal of provisions of this title affecting District of Columbia, Puerto Rico, Virgin Islands, Hawaii and Alaska, see note preceding sections 1 to 5 of this title.

#### §§ 11 to 40. Repealed. Aug. 27, 1935, ch. 740, title I, § 1, 49 Stat. 872

Section 11, act Oct. 28, 1919, ch. 85, title II, §2, 41 Stat. 308, authorized Commissioner of Internal Revenue, his assistants, agents, and inspectors to swear out warrants before United States commissioners [now United States magistrate judges] or other officers or courts authorized to issue warrants, and to investigate and report violations of this title to United States attorney for district in which violations were committed.

Section 12, act Oct. 28, 1919, ch. 85, title II, §3, 41 Stat. 308, provided that no person manufacture, sell, barter, transport, import, export, deliver, furnish or possess any intoxicating liquor except as otherwise provided by provisions of this title.

Section 13, act Oct. 28, 1919, ch. 85, title II, §4, 41 Stat. 309, exempted specified articles, after having been manufactured and prepared for market, from provisions of this title, required manufacturers of such exempt articles to secure permits, give bonds, keep records, and make reports, and made unlawful the failure to comply with any of foregoing requirements.

Section 14, act Oct. 28, 1919, ch. 85, title II, §5, 41 Stat. 309, authorized commissioner to analyze specified manufactured articles in order to determine whether said articles constituted intoxicating liquors.

Section 15, act Nov. 23, 1921, ch. 134, §2, 42 Stat. 222, authorized commissioner to order a change of formula of preparations used as a beverage or for intoxicating liquor purposes where sale or use of such preparations was substantially increased in community by reason of its use as a beverage or for intoxicating beverage purposes.

Section 16, act Oct. 28, 1919, ch. 85, title II, §6, 41 Stat. 310, required that any person manufacturing, selling, purchasing, transporting, or prescribing any liquor, except liquor purchased and used for medicinal purposes

when prescribed by a physician, liquor purchased and used in a bona fide hospital or sanitarium for treatment of alcoholism, and wine manufactured, etc., for sacramental or religious purposes, first obtain a permit from commissioner.

Section 17, act Oct. 28, 1919, ch. 85, title II, §7, 41 Stat. 311, authorized no one but a physician holding a permit to prescribe liquor to issue any prescription for liquor, required every such physician to keep a record of every prescription issued, and required pharmacist filling each prescription issued to indorse upon it over his own signature "canceled".

Section 18, act Nov. 23, 1921, ch. 134, §2, 42 Stat. 222, specified kinds of liquor which could be prescribed for medicinal purposes, percentage of alcohol in such prescriptions, and quantity permitted to be prescribed.

Section 19, act Oct. 28, 1919, ch. 85, title II, §8, 41 Stat. 311, authorized commissioner to issue prescription blanks, free of cost, to physicians holding permits to prescribe liquor for medicinal purposes.

Section 20, act Nov. 23, 1921, ch. 134, §2, 42 Stat. 222, set forth number of prescription blanks that could be issued to a physician, and number of prescriptions that could be issued by a physician.

Section 21, act Oct. 28, 1919, ch. 85, title II, §9, 41 Stat. 311, set forth procedure by which commissioner could cite permittees believed not to be conforming to provisions of this title, or who had violated laws of any State relating to intoxicating liquors.

Section 22, act Oct. 28, 1919, ch. 85, title II, §10, 41 Stat. 312, required every person manufacturing, purchasing, selling, or transporting any liquor to make and keep a permanent record of all such transactions.

Section 23, act Oct. 28, 1919, ch. 85, title II, §11, 41 Stat. 312, required all manufacturers and wholesale or retail druggists to keep a copy of all permits to purchase on which a sale of any liquor was made.

Section 24, act Oct. 28, 1919, ch. 85, title II, §12, 41 Stat. 312, required all persons manufacturing liquor for sale to attach labels to every container, and specified the information to be placed on such labels.

Section 25, act Oct. 28, 1919, ch. 85, title II, §13, 41 Stat. 312, required every carrier to make a record at place of shipment of receipt of any liquor transported, and to deliver liquor only to persons presenting to him a verified copy of a permit to purchase.

Section 26, act Oct. 28, 1919, ch. 85, title II, §14, 41 Stat. 312, made it unlawful for any person to use or induce any carrier, or any agent or employee thereof, to carry or ship any package or receptacle containing liquor without notifying carrier of true nature and character of shipment, and required all packages carrying liquor to contain enumerated information.

Section 27, act Oct. 28, 1919, ch. 85, title II, §15, 41 Stat. 313, made it unlawful for any consignee to accept any package containing liquor upon which appeared a statement known by him to be false, or for any carrier to consign, etc., any such package, knowing such statement to be false.

Section 28, act Oct. 28, 1919, ch. 85, title II, §16, 41 Stat. 313, made it unlawful to order a carrier to deliver liquor to any person not a bona fide consignee.

Section 29, act Oct. 28, 1919, ch. 85, title II, §17, 41 Stat. 313, made it unlawful to advertise liquor, or manufacture, sale, or keeping for sale of liquor, and exempted manufacturers and wholesale druggists holding permits to sell liquor from prohibition when furnishing price lists to persons permitted to purchase liquor or when advertising in business publications.

Section 30, act Oct. 28, 1919, ch. 85, title II, §18, 41 Stat. 313, made it unlawful to advertise, manufacture, sell, or possess for sale any utensil, ingredient, or formula intended for use in unlawful manufacture of intoxicating liquor.

Section 31, act Oct. 28, 1919, ch. 85, title II, §19, 41 Stat. 313, prohibited any person from soliciting or receiving orders for liquor or giving information as to how liquor could be obtained in violation of this title.

Section 32, act Oct. 28, 1919, ch. 85, title II, §20, 41 Stat. 313, gave a right of action to any person injured

in person, property, means of support, or otherwise by any intoxicated person against any person who unlawfully sold liquor to such intoxicated person, or caused or contributed to such intoxication.

Section 33, act Oct. 28, 1919, ch. 85, title II, §21, 41 Stat. 314, declared any property used in connection with a violation of this title to be a common nuisance, set forth punishment for maintenance of a common nuisance, and made owner of such property liable.

Section 34, act Oct. 28, 1919, ch. 85, title II, §22, 41 Stat. 314, set forth procedure which authorized an action in equity to enjoin any nuisance defined in this title.

Section 35, act Oct. 28, 1919, ch. 85, title II, §23, 41 Stat. 314, declared any person keeping or carrying liquor with intent to sell, or soliciting orders for liquor guilty of a nuisance and restrainable by injunction.

Section 36, act Oct. 29, 1919, ch. 85, title II, §23, 41 Stat. 314, set forth fees of officers removing and selling property in enforcement of these provisions.

Section 37, act Oct. 28, 1919, ch. 85, title II, §23, 41 Stat. 314, provided that any violation upon any leased premises by the lessee or occupant thereof could, at the option of the lessor, work a forfeiture of lease.

Section 38, act Oct. 28, 1919, ch. 85, title II, §24, 41 Stat. 315, set forth procedure and punishment for violation of any injunction granted pursuant to these provisions.

Section 39, act Oct. 28, 1919, ch. 85, title II, §25, 41 Stat. 315, prohibited unlawful possession of liquor or property designed for manufacture thereof, and authorized issuance of search warrants and destruction of unlawfully possessed liquor and property seized pursuant to such search warrants.

Section 40, act Oct. 28, 1919, ch. 85, title II, §26, 41 Stat. 315, set forth procedure for seizure and destruction of unlawfully transported liquor and sale of any vehicle found to be used for such transportation.

#### **§ 40a. Repealed. June 25, 1948, ch. 645, §21, 62 Stat. 862**

Section, act Aug. 27, 1935, ch. 740, §204, 49 Stat. 878, related to remission or mitigation of forfeiture of a seized vehicle or aircraft. See section 3668 of Title 18, Crimes and Criminal Procedure.

#### EFFECTIVE DATE OF REPEAL

Repeal effective Sept. 1, 1948, see act June 25, 1948, ch. 645, §20, 62 Stat. 862.

#### **§§ 41 to 43. Repealed. Aug. 27, 1935, ch. 740, title III, §308(a), 49 Stat. 880**

Section 41, act Mar. 3, 1925, ch. 438, §1, 43 Stat. 1116, related to use of forfeited vessels or vehicles for enforcement of provisions of this title in lieu of sale.

Section 42, acts Mar. 3, 1925, ch. 438, §2, 43 Stat. 1116; May 27, 1930, ch. 342, §§9, 10, 46 Stat. 430, related to application by a department head for which seizure of a vessel or vehicle is made to deliver such vessel or vehicle to Department of Justice for use in enforcement of this title, the 18th Amendment, or the customs laws.

Section 43, act Mar. 3, 1925, ch. 438, §3, 43 Stat. 1116, related to limitation on use of forfeited vessels or vehicles.

#### **§§ 43a, 43b. Omitted**

#### CODIFICATION

Section 43a, acts May 14, 1937, ch. 180, §1, 50 Stat. 145; Mar. 28, 1938, ch. 55, §1, 52 Stat. 128, related to use by narcotics agents of motor vehicles confiscated pursuant to section 43 of this title.

Section 43b, acts May 6, 1939, ch. 115, title I, §1, 53 Stat. 663; Mar. 25, 1940, ch. 71, title I, 54 Stat. 63, related to use by narcotics agents of motor vehicles confiscated pursuant to section 157 of this title. See section 3616 of Title 18, Crimes and Criminal Procedure.