

CHAPTER 82

INTOXICATING LIQUORS

IMPORTATION RESTRICTIONS

(H. B. No. 164, by Messrs. Horton and Harris)

AN ACT

RELATING TO INTOXICATING LIQUORS AND AMENDING
 "AN ACT RELATING TO INTOXICATING LIQUORS,"
 APPROVED MARCH 3, 1915.

Be It Enacted by the General Assembly of the State of Colorado:

Act amended

Section 1. That Section 7 of an act relating to intoxicating liquors, approved March 3, 1915, be and the same is hereby amended to read as follows:

Legal importation

Section 7. Importation. Persons desiring to import and keep intoxicating liquor in their homes for medicinal or other lawful use may do so in manner as provided in this act and not otherwise. The Secretary of State shall supply to each county clerk and recorder a book of numbered forms designated a "Record of Importation of Intoxicating Liquor," containing applications and permits in substantially the following forms:

Form of application for permit to import intoxicating liquor

APPLICATION FOR PERMIT TO IMPORT INTOXICATING LIQUOR.

State of Colorado, County ofSS.

The undersigned being first duly sworn, deposes and says, that he is a resident of

(Give postoffice address, including street or R. F. D. number.)

in the county of....., State of Colorado;
that he is over the age of twenty-one years; that his true
name is as hereto subscribed; that neither he nor any mem-
ber of his household has directly or indirectly secured a
permit to import any intoxicating liquor within thirty
days of this date and that he desires to import for medic-
inal or other lawful use in his home.....

.....
(State kind, quantity, not exceeding two quarts of intoxi-

.....
cating liquor other than wine or beer, or six quarts of
WINE, or twenty-four quarts of beer.)

from at.....

(Name of consignor) (Give postoffice address, in-

.....
cluding street or R. F. D. number, city and state.)

.....
Applicant.

Subscribed and sworn to before me this.....day
of....., A. D. 19.....

PERMIT TO IMPORT INTOXICATING LIQUOR.

Good for One Shipment Only Which Must Be De-
livered Within Twenty days After the Issuance Hereof.

This is to certify that.....

(Give postoffice address, in-

.....
cluding street or R. F. D. number and town or city, coun-
ty and state.)

is hereby authorized to import.....

(State kind, quantity, not ex-

Form of permit
issued to
import intoxi-
cating liquor

ceeding two quarts of intoxicating liquor other than wine

or beer, or six quarts of wine, or twenty-four quarts of beer.)

from
(Name of Consignor.)

at
(Give postoffice address, including street or R. F. D. number and town and city, county and state.)

Dated at....., Colorado, this

.....day of..... A. D. 19.....

County Clerk and Recorder.

(SEAL)

By....., Deputy.

The applications shall be permanently fastened in said book and shall be consecutively numbered and each permit shall bear the same number as its corresponding application, from which it shall be separated by a perforated line.

Procedure
in securing
permit

Fee

Any person desiring to import intoxicating liquor for medicinal or other lawful use shall appear before the County clerk and Recorder of the County in which he resides and fill in, subscribe and make affidavit to an application therefor and pay a fee of twenty-five cents, or shall mail an application duly subscribed and sworn to, to said County Clerk and Recorder with said fee, which said application shall be permanently fastened in said book aforesaid, by pasting or otherwise, upon the blank application in said book which would have been used had the applicant appeared personally, whereupon said County Clerk

and Recorder shall deliver or mail the permit herein provided for to said applicant; *provided* that not more than one such permit shall be issued by any county clerk and recorder to the member or to the members of one household, or to any person, within any period of thirty days; and, *provided further* that no such permit shall be issued by the County Clerk and Recorder of any county to any person convicted of a violation of this act.

Only one permit to issue to members of same household monthly

Any person who shall knowingly subscribe and make affidavit to an application required by this act, that is false, or who shall knowingly make, utter, use, deliver or put in circulation, or aid, or abet in the making, uttering, using, delivering or putting in circulation any application or permit required by this act, that is false, shall be deemed guilty of a violation of this act; *provided* that nothing herein contained shall be construed as repealing any statute of this state relating to perjury.

False affidavit

No repeal intended

The applications and permits herein provided for, or duly certified copies thereof, shall be admissible as evidence in any court of this State having jurisdiction of violations of this act.

Applications and permits admissible as evidence

It shall be unlawful for any person to receive at any one time more than two quarts of intoxicating liquor other than wine or beer, or six quarts of wine, or twenty-four quarts of beer for medicinal or other lawful use, except where intoxicating liquor is handled for medicinal or sacramental purposes under Sections 15, 16, 17 and 18 of this act.

Limit of quantity imported

It shall be unlawful for any person to have, keep or use intoxicating liquor in any store, shop, club, roadhouse, railroad car, place of private business or place of public resort, or in the room or rooms of any hotel, rooming house or boarding house or in any part or parts of any building directly or indirectly connected with any such place, or in any place except in his home or except while carrying same with the permit herein provided for thereto securely fastened; and it shall be unlawful for any person in this

Intoxicating liquor may be kept in "home" only

Manufacture
prohibited

state to manufacture intoxicating liquor for any purpose whatsoever.

Section
amended

Section 2. That Section 8 of an act relating to intoxicating liquors, approved March 3, 1915, be and the same is hereby amended to read as follows:

"Carrier"
defined and
restricted

Section 8. Carrier, How Deliver. The word carrier when used in this act, shall be construed to mean only railroad companies or express companies regularly chartered as such under the laws of Colorado, and operating over railroad lines; or express companies chartered under the laws of some other state and authorized to do an express business under the laws of Colorado, and operating over railroad lines; and such railroad companies and express companies in each case shall have regularly established routes, depots, stations and offices.

Only "carriers"
as defined in
act can carry
intoxicating
liquor

It shall be unlawful for any person, association or corporation to carry intoxicating liquor into this state, or from one point to another in this state, that is not a carrier as herein defined; except that it shall be lawful for any carrier as herein defined to carry intoxicating liquor into this state and from one point to another within this state, and to deliver same, and it shall be lawful for any person, association or corporation to receive and to carry same from one point to another within this state, if the packages containing such intoxicating liquor is accompanied by and conforms to a legally issued permit. It shall be unlawful for any carrier to deliver any intoxicating liquor to a minor, fictitious name or person, or to any other person than the consignee. Upon making delivery of such intoxicating liquor the carrier shall require the consignee to sign a receipt therefor. Within seven days after the first day of each calendar month the carrier shall file with the county clerk and recorder of the county in which such intoxicating liquor is delivered and, with the Secretary of State, reports covering the preceding calendar month, setting forth the date of each delivery of intoxicating liquor made, the name and post-

Persons to
whom delivery
unlawful

Consignee to
sign receipt

Carrier to file
reports

office address of each consignor and consignee, the kind and quantity of such intoxicating liquor delivered and the permit number under which each shipment was carried, which reports shall be kept on file as public records. It shall be unlawful for a carrier to deliver any package containing intoxicating liquor more than twenty days after the date of the issuance of the permit accompanying same. If any intoxicating liquor is not delivered or claimed within said twenty days the carrier shall deliver same to the sheriff of the county, who shall receipt for and forthwith destroy same, unless he is directed by court order as in this act provided to deliver same to a hospital.

Reports to be
public records

Delivery must
be within
twenty days

Each county clerk and recorder, within fifteen days after the first day of each calendar month, shall file with the Secretary of State a report covering the preceding month, showing each permit issued by number, the name and address of each consignor and consignee and the amount and kind of intoxicating liquor permitted to be imported under each permit, which reports shall be kept on file as public documents for a period of two years. Such reports, or certified copies thereof, shall be admissible as evidence in any court of this state having jurisdiction of violations of this act. Each county clerk and recorder shall also remit therewith to the Secretary of State one-half of all fees collected by him.

Clerk and
recorder to
make report
to Secretary
of State

Reports admis-
sible in
evidence

Section 3. That Section Eleven of an act relating to intoxicating liquors, approved March 3, 1915, be and the same is hereby amended to read as follows:

Section
amended

Section 11. Search and Seizure. If any person make an affidavit before any justice of the peace, or the judge of any county or district court, stating that he has reason to and does believe that intoxicating liquors are being sold, bartered, exchanged, divided, or unlawfully given away, or kept for such purposes, or carried in violation of this act, within the jurisdiction of such justice or court, and describing in such affidavit the premises,

Search warrant
issued on
affidavit

wagon, automobile, vehicle, contrivance, thing or device to be searched, then such justice or the judge of such court, shall issue a warrant to any officer which the complainant may designate having power to serve original process, commanding such officer to search the premises, (other than a home), wagon, automobile, vehicle, contrivance, thing or device described in such affidavit. Such warrant shall be substantially as follows:

Form of search
warrant

State of Colorado, County of.....ss.

The People of the State of Colorado to.....

Greeting:

Whereas there has been filed with the undersigned an affidavit of which the following is a copy:

(Here copy affidavit.)

Therefore You are Hereby Commanded, in the name of the People of the State of Colorado, forthwith, together with the necessary and proper assistance to enter into

.....
Here describe the place mentioned in the affidavit.

of the said.....situate in the county
ofaforesaid and there
diligently search for the said intoxicating liquors and
that you bring the same or any part thereof found in
such search, together with such vessels in which such
liquors are found and the implements and furniture used
in connection therewith, and the automobile, wagon, ve-
hicle, contrivance, thing or device in which carried, forth-
with before me, to be disposed of and dealt with accord-
ing to law.

Given under my hand and seal this.....day

of..... A. D. 19....

.....
Judge of the.....Court or
Justice of the Peace.

The officer charged with the execution of said warrant may, when necessary to obtain entrance, or when entrance has been refused, break open any premises (other than a home); wagon, automobile, vehicle, contrivance, thing or device which by said warrant he is directed to search; and may execute said warrant any hour of the day or night.

Officer may
use force

Section 4. That Section Twelve of an act relating to intoxicating liquors, approved March 3, 1915, be and the same is hereby amended to read as follows:

Section
amended

Section 12. Duty of Officer. If any intoxicating liquors are there found, said officer shall seize the same and the vessels in which they are contained and all implements and furniture used or kept in connection with such liquors in the illegal selling, bartering, exchanging, giving away or carrying of same, and any wagon, automobile, vehicle, contrivance, thing or device used in conveying same, and them safely keep and make immediate return on such warrant. Such property shall not be taken from the custody of any officer seizing or holding the same, by writ of replevin or other process, while the proceedings relating thereto are pending. Final judgment of conviction in such proceedings shall be a bar to any and all suits for the recovery of any such property so seized, or the value of the same, or for damages alleged to arise by reason of such seizure and detention. The judgment entered shall find said liquor to be unlawful and shall direct its destruction forthwith, unless some hospital applies for same for medicinal use, in which event the justice or court may, upon such terms as shall be meet and proper, order such liquor delivered to such hospital for medicinal use, under physicians prescription; and a certified copy of such order or judgment shall be the authority to carry such liquor to such hospital and for such hospital to receive same, and such hospital shall report the disposition of such liquor in manner as required of pharmacists by section 17 hereof. The said wagon, automobile, vehicle,

Office to seize
intoxicating
liquors,
containers,
fixtures, etc.

Replevin not
to apply

Disposition of
seized intoxicating liquor

Hospital to
report

Confiscation of property seized with intoxicating liquor

contrivance, thing or device, vessels, implements and furniture, if owned by the person violating this act, shall likewise be ordered disposed of as personal property is sold under execution and the proceeds therefrom applied, first in the payment of the costs of the prosecution and of any fine imposed, and the balance, if any, paid into the general school fund of the county in which such conviction is had; or returned, in the discretion of the justice or court, but in no event until all fines and court costs in connection with such proceedings have been paid in full. The officer serving the warrant shall forthwith file a complaint in the court issuing same, charging such violation of law as the evidence in the case justifies. If such officer refuses or neglects to file such complaint, then the person filing the affidavit for the search warrant, or any other person, may file such complaint.

Destroyed fluids shall be prima facie evidence

If fluids are poured out, or otherwise destroyed, manifestly for the purpose of preventing their seizure, said fluids shall be held to be prima facie intoxicating liquor and intended for unlawful sale, barter, exchange or gift.

Officer to post notice

If no person is in possession of the premises where such liquors are found, the officer seizing such liquors shall post in a conspicuous place on said premises a copy of his warrant, and if at the time fixed for said hearing, or within thirty days thereafter, no person appears, said justice of the peace, or court shall order such liquors destroyed.

No warrant issued pursuant to this act shall authorize the search of any place where a person may lawfully keep intoxicating liquor as provided in this act.

Maker of affidavit may assist officer

The person making affidavit for the warrant to search may personally accompany the officer who serves the warrant, and enter the place with such officer, and give information and assistance to such officer in searching the premises.

Section 5. That Section Twenty-one of an act relating to intoxicating liquors, approved March 3, 1915, be and the same is hereby amended to read as follows:

Section
amended

Section 21. Evidence. In all prosecutions under this act the finding of intoxicating liquor in the possession of anyone except as in this act permitted, shall be prima facie proof of a violation of this act. The possession of an internal revenue stamp or tax receipt, issued by the United States Government, permitting or relating to the sale of intoxicating liquors, by any person, association or corporation, not authorized under this act to handle intoxicating liquor, or a certificate from the collector of internal revenue, or any of his agents, clerks or deputies, showing the payment of such internal revenue tax, by any such person, association or corporation aforesaid, shall also be prima facie proof in any court having jurisdiction of a violation of this act.

Unauthorized
possession

Government
license prima
facie evidence

Section 6. Unconstitutional Sections. If any section, sub-section, sentence, clause or phrase of this act is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this act. The General Assembly hereby declares it would have passed the act and each section, sub-section, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, sub-sections, sentences, clauses or phrases be declared unconstitutional.

If portions of
act are uncon-
stitutional

Section 7. For Immediate Preservation. The General Assembly hereby finds, determines and declares that this act and each and every sentence, phrase, clause and sub-section thereof, is necessary for the immediate preservation of the public peace, health and safety.

Safety clause

Section 8. In the opinion of the General Assembly an emergency exists; therefore, this act shall take effect and be in force from and after its passage.

Emergency
clause

Approved: April 23, 1917.