

Ordinance No. 36249

An Ordinance relating to and defining intoxicating liquor within the City of Seattle, prescribing the powers and duties of certain officers in relation thereto, prescribing penalties for violation and repealing Ordinance No. 35,503 and other ordinances in conflict.

(ENGROSSED BILL)

Council Bill No. 25128

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REFERRED:	
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Ord. 57916 - Relating to persons found where liquor is unlawfully kept or sold and to said

### THE VOLSTEAD ACT.

From the New York World.

The Volstead act defines "liquor" and "intoxicating liquor" as "alcohol, brandy, whisky, rum, gin, beer, ale, porter and wine, and in addition thereto any spirituous, vinous, malt or fermented liquor, liquids and compounds, whether medicated, proprietary, patented or not, and by whatever name called, containing one-half of 1 per cent or more of alcohol by volume which are fit for use for beverage purposes."

It makes it unlawful to "manufacture, sell, harbor, transport, import, export, deliver, purchase or possess any intoxicating liquor except as authorized in this act."

It permits liquor for nonbeverage purposes, and wines for sacramental purposes, medical preparations and patented medicines " unfit" for beverage purposes; for toilet, medical and anti-septic preparations and solutions that are unfit for beverage purposes; flavoring extracts and syrups; vinegar and preserved sweet cider.

It requires permits by the commissioner of internal revenue if whisky is handled for any of these purposes.

Only a physician may issue a prescription, and he must have a permit.

Not more than a pint to be taken internally shall be prescribed for the same person within any period of ten days, and no prescription shall be filled more than once. Physicians and druggists must keep a careful record of their prescriptions for liquor.

No whisky may be manufactured, purchased for sale, sold or transported, and this applies to carrying whisky from one home to another, without a permit. Carriers must keep a record of all shipments, and carriers are forbidden from transporting whisky except for legal purposes.

Advertising liquor for sale is forbidden. It is unlawful to give any information as to how liquor may be made or obtained in violation of the act.

A common nuisance hereafter will apply to any rooming house, building, boat, vehicle, structure or place where intoxicating liquor is manufactured, sold, kept or harbored in violation of the law.

No one can carry liquor on his person unlawfully.

A private residence cannot be searched by search warrant unless it is being used for the unlawful sale of intoxicating liquor.

Liquor obtained before the act became effective may be kept at home, provided only for personal consumption.

Heavy penalties are provided for violating the act.

# AMENDED

IN SECTION 2 BY

ORDINANCE No. 41777

49263

ORDINANCE NO. 41777

AN ORDINANCE relating to the manufacture, keeping, sale, transportation, use and disposition of intoxicating liquor within the City of Seattle, providing penalties for violations of the provisions hereof, repealing Ordinance No. 35,503 relating to intoxicating liquor, approved December 1, 1915, and all other ordinances or parts thereof in conflict herewith.

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. This entire ordinance shall be deemed an exercise of the police power of the State of Washington and of the City of Seattle for the protection of the economic and social welfare, health, peace and morals of the people of the City of Seattle, and all its provisions shall be liberally construed for the accomplishment of that purpose.

Section 2. The phrase "intoxicating liquor" wherever used in this ordinance shall be held and construed to include alcohol, whiskey, brandy, gin, rum, wine, ale, beer and any spiritous, vinous, fermented or malt liquor, and every other liquor or liquid containing intoxicating properties which is capable of being used as a beverage, whether medicated or not, and all liquids, whether proprietary, patented or not, which contain any alcohol, which are capable of being used as a beverage, and any tablets, powder, pellets, liquid or other substance from which any of the foregoing, or a misleading imitation thereof, may be manufactured or concocted by mixing the same with water or other liquid.

Section 3. The word "person" wherever used in this ordinance, shall be held and construed to mean and include natural persons, firms, copartnerships and corporations, and all clubs and associations of natural persons, whether acting by themselves or by a servant, agent or employe.

Section 4. It shall be unlawful for any person, except as in this ordinance provided, to manufacture, sell, barter, exchange, give away, furnish or otherwise dispose of any intoxicating liquor; or to buy, receive or keep any intoxicating liquor, with intent to sell, barter, exchange, give away, use, furnish or otherwise dispose of the same; or to buy, accept or receive the same; or for any person, other than a licensed druggist or pharmacist or a person keeping alcohol to be used for mechanical or chemical purposes only, to have in his possession more than one-half gallon or two quarts of liquor other than beer, or more than twelve quarts or twenty-four pints of beer, for any purpose whatever; provided, however, that it shall not be unlawful for a person to give away intoxicating liquor to be drunk on the premises to a guest in his private dwelling or apartment which is not a place of public resort.

The receiving, keeping, giving away or otherwise disposing of intoxicating liquor, except as in this ordinance provided, or any shift, device or subterfuge to evade the provisions of this ordinance, shall be deemed unlawful within the meaning of this ordinance.

Section 5. It shall be unlawful for any person to drink, or give or offer to give or furnish to any other person to drink, intoxicating liquor in any cafe, restaurant, public dining room, confectionary, drug store or pharmacy, place of business where soft drinks are sold, pool hall, club or other place of public resort.

Section 6. It shall be unlawful for any person owning, leasing, renting or occupying any premises, building, vehicle or boat to knowingly permit intoxicating liquor to be manufactured, sold, bartered, exchanged, given away, furnished or otherwise disposed of in violation of the provisions of this ordinance, or to be kept in violation of the provisions of this ordinance thereon or therein, and all premises, buildings, vehicles and boats whereon and wherein intoxicating liquor is manufactured, sold, bartered, exchanged, given away, furnished or otherwise disposed of or kept in violation of the provisions of this ordinance are common nuisances, and may be abated as such, and upon conviction of the owner, lessee, tenant or occupant of any premises, building, vehicle or boat, of a violation of the provisions of this section he shall be punished as provided by Section 25 hereof, and such nuisance shall be abated, and such premises, building, vehicle or boat shall be closed until the owner, lessee, tenant

or occupant thereof shall give bond, with a sufficient surety, to be approved by the court making the order, in the penal sum of one thousand (1,000) dollars, payable to the City of Seattle, and conditioned that intoxicating liquor will not thereafter be manufactured, sold, bartered, exchanged, given away, furnished or otherwise disposed of thereon and therein, or kept thereon or therein contrary to law, and that he will pay all fines, costs and damages that may be assessed against him for any violation of this ordinance, and in case of the violation of any condition of such bond the whole amount may be recovered as a penalty for the use of the city, and in all cases where any person has been convicted of a violation of the provisions of this section, and no appeal has been taken from such conviction, it shall be the duty of the court before whom the conviction is had, in addition to imposing the penalty or penalties herein provided, to order the defendant or defendants in such action to forthwith abate and remove such nuisance, and if the same is not done by such offender within twenty-four (24) hours the same shall be abated and removed by the authority of the chief of the police of the City of Seattle, or by any other officer authorized by the order of said court, which said order of abatement shall be entered upon the docket of the court and made a part of the judgment in the action.

Section 7. It shall be unlawful for any person to take or solicit orders for the purchase or sale of any intoxicating liquor, either in person or by sign, circular, letter, poster, hand bill, card, price list, advertisement or otherwise, or to distribute, publish or display any advertisement, sign or notice, naming, representing, describing or referring to the quality or quantity of any intoxicating liquor, or giving the name or address of any person manufacturing or dealing in intoxicating liquor, or stating where any such liquor may be obtained.

Section 8. Nothing in this ordinance shall be construed to prohibit a registered druggist or pharmacist from selling from a regularly established and licensed drug store or pharmacy, and not otherwise, intoxicating liquor for medicinal purposes upon the prescription of a licensed physician, or for sacramental purposes to a clergyman, or from selling alcohol for mechanical or chemical purposes only, all as herein

provided, but it shall be unlawful for such druggist or pharmacist to permit any such liquor to be drunk upon the premises where sold. Every druggist or pharmacist selling intoxicating liquor or alcohol for the purposes above provided shall serially number said sales and shall keep a true and exact record in a book provided by him for that purpose, in which shall be entered at the time of every sale of intoxicating liquor or alcohol made by him, the date of the sale, the serial number thereof, the name of the purchaser, his place of residence, stating the street and house number (if there be such), the kind, quantity and price of such liquor or alcohol and the purpose for which it is sold, and the name of the physician issuing the prescription, with the serial number thereof, or the clergyman receiving the same, and shall paste a green label upon the vessel in which said liquor or alcohol is delivered, which label shall, in addition to the name of the druggist or pharmacist and the true name of the drug store or pharmacy set forth the record of sale as entered in said book; and the purchaser shall be required to sign the record of the sale in the book. It shall be unlawful to give an incorrect or fictitious name, or to sign any other person's name or a fictitious or incorrect name. Whenever any druggist or pharmacist fills a prescription for intoxicating liquor he shall cancel the same by writing across the face thereof, in ink, the word "cancelled", together with his own name, with the date on which it was presented and filled and shall keep the same on file, separate from other prescriptions, under proper serial numbers, and no such prescription shall be filled again. Such book and all prescriptions for intoxicating liquor filled shall be open to inspection by any prosecuting attorney or city attorney, judge or justice of the peace, sheriff, constable, marshal or other police officer. It shall be unlawful for any druggist or pharmacist to fail or neglect to keep such record, or to secrete the same, or to destroy or in any way alter any such record or entry therein or any prescription filled, or to permit or procure the same to be destroyed or altered, or to refuse inspection thereof to any person entitled to such inspection, or to fail or neglect to cancel any such prescription, or to refill any prescription, or to sell intoxicating liquor for medicinal purposes, except on a written

prescription of a licensed physician, or for sacramental purposes to any person excepting a clergyman, or to fail or neglect to truly and correctly label the vessel containing the liquor or alcohol sold as above provided, or to place a false or misleading label thereon, or to sell intoxicating liquor without obtaining the signature of the purchaser; provided, that nothing herein contained shall be construed to prohibit the sale by a registered druggist or pharmacist from a licensed drug store or pharmacy of such intoxicating liquor as may be needed by or for a sick person in case of extreme illness where delay may be dangerous to the patient if said sale be recorded and the vessel labeled as above provided.

† It shall be unlawful for any person to have in his possession, upon any public street or highway, or in any public place or resort, any vessel containing intoxicating liquor or alcohol unless the same be labeled as above required, or which bears a label with date of sale more than five (5) days old, or which has been changed or defaced, or which has been placed thereon by any person not a registered druggist or pharmacist, or any such vessel that has been refilled after being labeled; provided, that, this shall not apply to liquors or alcohol in unbroken packages received in interstate commerce and in the course of delivery to the consignee named in the way bill within forty-eight (48) hours after reaching the City of Seattle, which have been lawfully shipped under permits issued according to the state law by the county auditor within thirty days next before said delivery, but the burden shall be upon the defendant to prove that he comes within this exception.

Section 9. It shall be unlawful for any licensed physician to issue a prescription for intoxicating liquor except in writing, or in any case unless he has good reason to believe that the person for whom it is issued is actually sick, and that the liquor is required as medicine. Every prescription for intoxicating liquor shall contain the true name and address of the physician, the name and quantity of liquor prescribed, the true name of the person for whom prescribed, the date on which the prescription is written and the directions for the use of the liquor so prescribed.

Section 10. It shall be unlawful for any person not a licensed physician to issue or sign any prescription for intoxicating liquor, or for any druggist or pharmacist who is a licensed physician to sell any intoxicating liquor upon any prescription written by himself, or for any druggist or pharmacist to sell any intoxicating liquor except upon the prescription of a licensed physician and unless said prescription in complete form is delivered to said druggist or pharmacist at the time of the actual sale and delivery of such intoxicating liquor, or for any person not a druggist or pharmacist registered under state laws to fill any prescription or to sell or dispose of or dispense any intoxicating liquor.

Section 11. The issuance of an internal revenue special tax stamp or receipt by the United States to any person as a retail dealer in intoxicating liquor shall be prima facie evidence of the sale of intoxicating liquor by such person at the place of business of such person where such stamp or receipt is posted if, at the time, the stamp or receipt is in force and effect; provided, that this section shall not apply to druggists or pharmacists. A copy of such stamp or of the records of the United States internal revenue office, certified to by any United States internal revenue officer, deputy or assistant having charge of such records or stamps, which shows that the United States special liquor tax has been paid by any person charged with selling, bartering, exchanging, giving away, furnishing or otherwise disposing of intoxicating liquor in violation of this ordinance, shall be competent and prima facie evidence that the person whose name appears on said records or stamp, as shown by said certified copy, has paid the special liquor tax for the time stated therein.

Section 12. It shall be unlawful for any person to directly or indirectly keep or maintain by himself or by associating with others, or to in any manner aid, assist or abet in keeping or maintaining any club house or clubroom, or other place in which intoxicating liquor is received or kept for the purpose of use, gift, barter, sale or other disposition or for the purpose of distribution or division among the members of any club or association or guests or visitors thereof.



† Section 13. If, upon the sworn complaint of any person, it shall be made to appear to any police judge that there is probable cause to believe that intoxicating liquor is being manufactured, sold, bartered, exchanged, given away, furnished or otherwise disposed of or kept in violation of the provisions of this ordinance, such police judge shall issue a warrant directed to any peace officer in the county, commanding him to search the premises designated and described in such complaint and warrant, and to seize all intoxicating liquor there found, together with the vessels in which it is contained, and all implements, vehicles, furniture and fixtures used or kept for the illegal manufacture, sale, barter, exchange, giving away, furnishing or otherwise disposing of such liquor, and to safely keep the same, and to make a return of said warrant within three (3) days, showing all acts and things done thereunder, with a particular statement of all articles seized and the name of the person in whose possession the same were found, if any, and if no person be found in the possession of said articles the return shall so state. A copy of said warrant shall be served upon the person <sup>or person</sup> found in possession of any such intoxicating liquor, vehicles, furniture or fixtures so seized, and if no person be found in the possession thereof a copy of said warrant shall be posted on the door of the building or room wherein the same are found, or, if there be no door, then in any conspicuous place upon the premises.

† Section 14. Upon the return of the warrant as provided in the next preceding section the police judge shall fix a time, not less than ten (10) days and not more than thirty (30) days thereafter, for the hearing of said return, when he shall proceed to hear and determine whether or not the articles so seized, or any part thereof, were used or in any manner kept or possessed by any person in violation of, or with the intention of violating any of the provisions of this ordinance. At such hearing any person claiming any interest in any of the articles seized may appear and be heard upon filing a written claim, setting forth particularly the character and extent of his interest, but upon such hearing the sworn complaint or affidavit upon which the search warrant was

issued and the possession of such intoxicating liquor shall constitute prima facie evidence of the contraband character of the liquor and articles seized, and the burden shall rest upon the claimant to show, by competent evidence, his property right or interest in the articles claimed and that the same were not kept or used in the violation of any of the provisions of this ordinance, and were not in any manner kept or possessed with the intention of violating any of the provisions of this ordinance. If, upon such hearing, the evidence warrants, or if no person shall appear as claimant, the police judge shall thereupon enter a judgment of forfeiture and order such articles destroyed forthwith; provided, however, that if in the opinion of the police judge any of such forfeited articles other than intoxicating liquor are of value and adapted to any lawful use, such police judge shall, as a part of the order and judgment, direct that said articles other than intoxicating liquor shall be sold as upon execution by the chief of the police department, and the proceeds of such sale, after payment of all costs in the proceeding, shall be paid into the city treasury. Action under this section and the forfeiture, destruction or sale of any articles thereunder shall not be a bar to any prosecution under any other provisions of this ordinance.

Section 15. In any action or proceeding under this ordinance or under any other law relating to the unlawful disposition or possession of intoxicating liquor, no person shall be excused from testifying when called as a witness for the prosecution on the ground that his testimony may incriminate himself, but no person shall be prosecuted or punished on account of any transaction or matter or thing concerning which he shall be compelled to testify on behalf of the prosecution.

Section 16. Any citizen or organization within this state may employ an attorney to assist the city attorney in any action or proceeding under this ordinance and such attorney shall be recognized by the city attorney and the police judge as associate counsel in the case, and no prosecution shall be dismissed over the objection of such associate counsel until the reasons of such city attorney for such dismissal, together with the objections of such associate counsel, shall have been filed in writing, argued by counsel and fully considered by the police judge.

Section 17. It shall be unlawful for any druggist or pharmacist to keep any intoxicating liquor at any place excepting in the same room in which he is conducting his drug or pharmacy business and in which his certificate of registration and drug store and pharmacy license is displayed.

Section 18. Every pharmacist or druggist doing business within the City of Seattle shall, within ten (10) days after the taking effect of this ordinance, file with the city comptroller a complete detailed inventory of the quantity of each kind of intoxicating liquor which such druggist or pharmacist has on hand at the date of such inventory, giving the kind and quantity of liquor; and a like inventory shall in like manner, on the first day of January, 1917, and <sup>of</sup> each and every third month thereafter, be filed with the city comptroller which shall give the quantity of intoxicating liquor on hand at the date of the last preceding inventory, the quantity received since said date and the balance of each kind remaining on hand at the date of said inventory, and any intoxicating liquor not so inventoried may be seized and destroyed as contraband and as constituting a nuisance, and such confiscation and destruction shall be no bar to the prosecution of any person for the violation of this ordinance.

Section 19 . It shall be unlawful for any person to make a false statement to a physician, druggist or pharmacist for the purpose of obtaining intoxicating liquor or alcohol, or to any railroad, express or transportation company, or any person engaged in the business of transporting goods, wares and merchandise for the purpose of obtaining shipment, transportation or delivery of any intoxicating liquor, or to the city comptroller in any application or inventory hereunder.

Section 20 . In any prosecution for the violation of any provisions of this ordinance it shall be competent to prove that any person had in his possession more than two (2) quarts of intoxicating liquor other than beer, or more than twelve (12) quarts of beer, and such possession and the proof thereof shall be prima facie evidence that said liquor was so held and kept in violation of this ordinance.

Section 21 . If any part, provision or section of this ordinance shall be held void or unconstitutional, all other parts, provisions and sections of the ordinance which are not expressly held to be void or unconstitutional, shall continue in full force and effect.

Section 22 . Every police judge shall recognize and act upon any sworn complaint of a violation of this ordinance filed by any person in the same manner and to the same extent as though the same were filed by the city attorney.

Section 23 . Within ten (10) days after the date when this ordinance has become operative, every person except registered druggists and pharmacists operating a licensed drug store or pharmacy shall remove or cause to be removed all intoxicating liquor in his possession from the City of Seattle, and failure so to do shall be prima facie evidence that such liquor is kept therein for the purpose of being sold, bartered, exchanged, given away, furnished or otherwise disposed of in violation of the provisions of this ordinance; provided, however, that this section shall not apply to alcohol kept for chemical or manufacturing purposes, or to one-half gallon of intoxicating liquor, other than beer, or twelve (12) quarts of beer held by an individual.

Section 24 . It shall be unlawful for any person other than a common carrier to transport, carry or bring into the City of Seattle any intoxicating liquor in excess of one-half gallon of liquor other than beer, or twelve (12) quarts of beer, within any twenty (20) day period.

Section 25 . Any person convicted of any violation of this ordinance, where the punishment therefor is not herein specifically provided, shall be punished by a fine of not less than fifty (50) dollars nor more than one hundred (100) dollars, or by imprisonment in the city jail for a period of not more than thirty (30) days, or by both such fine and imprisonment.

Any person convicted of any subsequent violation of this ordinance shall be fined not less than one hundred (100) dollars, and imprisoned in the city jail for not less than thirty (30) days.

The city attorney or the police judge having knowledge of any previous conviction of any person accused of violating this ordinance, shall, in preparing complaints for subsequent offenses, allege such previous conviction therein, and a certified transcript from the docket of any police judge or a certified copy of the record under the seal of the clerk of any court of record shall be sufficient evidence of any previous conviction or convictions of violations of this ordinance.

Section 26 . No prosecution now pending, and no offenses heretofore committed under ordinances heretofore enacted shall be affected in any way by the provisions of this ordinance, but all such prosecutions shall be conducted to final judgment and all such offenses shall be prosecuted in the same manner as if this ordinance had not been enacted.

Section 27 . Ordinance No. 35,503, entitled "An Ordinance relating to intoxicating liquor within the City of Seattle, prohibiting the manufacture, keeping, sale and disposition thereof, except in certain cases, the soliciting and taking of orders therefor, the advertisement thereof and the making of false statements for the purpose of obtaining the same, declaring certain places to be nuisances and providing for their abatement, regulating the keeping, sale and disposition of intoxicating liquor by druggists and pharmacists, the prescription thereof by physicians, the transportation thereof, and providing for the search, seizure and destruction thereof, prescribing the powers and duties of certain officers, and the forms of procedure and the rules of evidence in cases and proceedings hereunder, and fixing penalties for violations hereof, repealing all ordinances and parts of ordinances in conflict herewith, and the time when this ordinance shall take effect", approved December 1, 1915, and all other ordinances or parts thereof in so far as the same are in conflict herewith, are hereby repealed.

(To be used for all Ordinances except Emergency.)

Section 78 This ordinance shall take effect and be in force thirty days from and after its passage and approval, if approved by the Mayor; otherwise it shall take effect at the time it shall become a law under the provisions of the city charter.

Passed the City Council the 7 day of AUGUST 1916  
and signed by me in open session in authentication of its passage this 7 day of AUGUST 1916

*A. Haas*

President of the City Council.

Approved by me this 8 day of AUGUST 1916

*M. Gill*

Mayor.

Filed by me this 8 day of AUGUST 1916

Attest: *A. Carroll*  
City Comptroller and Ex-Officio City Clerk.

[SEAL]

By *A. Stewart*  
Deputy Clerk.

Published AUG 10 1916  
By *A. Stewart*  
City Comptroller and Ex-Officio City Clerk.  
Deputy Clerk.