

# NEW LIQUOR LAW

## The Carey-Cothran Measure As Adopted

### PROVIDES FOR COUNTY OPTION

Full Text of the Measure as it Passed the General Assembly and Signed by Governor Ansel.

A bill to declare the law in reference to, and to regulate the manufacture, sale, use, consumption, possession, disposition and transportation of alcoholic liquors and beverages within this State, and to police the same.

Be it enacted by the general assembly of the State of South Carolina:

"Sec. 1. That all alcoholic liquor and beverages, whether manufactured within this State or elsewhere, not having been tested and found to be pure and free from poisonous and deleterious matters as hereinafter provided, are hereby declared to be detrimental, and their use and consumption to be against the morals, good health and safety of the State, and contraband.

"On and after the approval of this act, the manufacture, sale, barter, exchange, receipt or acceptance for unlawful use delivery, storing and keeping in possession in this State of any spirituous, malt, vinous, fermented, brewed (whether lager or rice beer) or other liquors and beverages, or any compound or mixture thereof which may contain alcohol and is used as a beverage, is hereby prohibited, except in incorporated cities, and towns of this State, in counties wherein the same may be permitted as hereinafter provided. Any person convicted of violating this section shall be punished by imprisonment at hard labor for a period not less than three months nor more than six months, or by a fine of not less than \$100 nor more than \$500.

"Section 2. The question whether the liquor and beverages mentioned in section 1 of this act may be sold in any county in this State shall be determined at a special election to be held in such county on the first Tuesday following the first Monday in November of any year in which a general election for State and county officers is appointed by law to be held, and at such elections there shall also be submitted the question whether one-third of the license fees and dispensary profits as hereinafter provided for shall be paid to the county treasurer, to be applied to the county school fund or to the roads and bridges. Such election shall be ordered by the county supervisor of such county upon there being filed with him before the first day of May of such year, a petition in writing praying for such election signed by one-fourth of the qualified voters of such county. Except in the county of Colleton, where the petition shall be signed by one-sixth. He shall give 30 days notice by advertisement of such election, and the same shall be held and conducted by the same officers and under the rules and regulations provided by law for general State elections. Successive elections under this section is permitted, but they shall not be held in any one county upon the same question oftener than once in four years: Provided, That during the year 1907 such election may be held upon such a day as may be appointed by the county supervisor, upon similar petition and notice in the same manner and by the same officers: Provided, further, That in counties that have heretofore voted upon the question of dispensary or no dispensary under existing laws, such election shall not be held prior to the first general election held after four years from the date said counties voted upon the question, except that in the counties of Union, Horry, Darlington, Marion and Newberry such election by the county supervisor upon similar petition and notice in the same manner and by the same officers as above provided: Provided, That any county in which a dispensary is now located may have the right to vote on the question of the removal of the dispensary in the manner provided in this act: Provided, further, That any county voting in a dispensary shall have the right to vote on said dispensary, at any general election occurring four years or more after its establishment, in the same manner in which it was voted in: Provided, That the counties of Laurens and Edgefield may vote upon the question of dispensary or no dispensary at the general election in the year 1908, in the mode herein prescribed.

"Section 3. At such election the election commissioners for such county shall at each voting precinct therein provide two ballot boxes in which the ballots must be cast. Any person who is a qualified elector of such county may vote in such election. Every voter who may be in favor of the sale of liquor and beverage in such county shall cast a ballot in a box provided therefor on which shall be printed the words, 'For sale' and every voter opposed shall cast a ballot upon which shall be printed the words, 'Against sale.' Every voter who may be in favor of

the application of one-third of the dispensary profits to the county school fund shall cast a ballot in a box furnished therefor, upon which shall be printed the words 'For school fund;' and every voter opposed thereto, but in favor of its application to roads and bridges, shall cast a ballot upon which shall be printed the words 'For roads and bridges.'

"Section 4. If a majority of the ballots cast in such election be 'For sale,' it shall be lawful for such liquors to be sold in said county as hereinafter provided until the result of such election be reversed by a subsequent election.

"Section 5. If the sale of alcoholic liquors and beverages be authorized by such election, the governor, upon recommendation of the county board of education of such county, if the result of the election as to application of profits be in favor of county school fund, or the county board of commissioners, if such results be in favor of roads and bridges, the mayor or intendant of the city or town within which a dispensary may be located and the senator and members of the House of Representatives of such county shall appoint three qualified electors of the county who shall be known as 'county dispensary board,' and whose term of office shall be 2 years, subject to removal by the governor for cause. One member of the board shall be recommended by each of the bodies above named, which shall also have the power to fill any vacancy, a majority thereof in each instance controlling. If there be more than one city or town in such county within which a dispensary may be located, then, and in such case a majority of the mayors or intendants of such cities and towns shall control in their recommendation; and if there should be a failure on their part for any reason to agree, then the appointment of any member to be recommended by them shall be made by the delegation: Provided, That in the counties of Dorchester, Berkeley, Fairfield, Orangeburg, Union, Newberry, Kershaw, Lee, Lexington, Barnwell, Marion, Marlboro, Sumter and Oconee, said board shall be appointed upon the recommendation of the members of the general assembly from said counties, or a majority of the respective delegations; except in the county of Abbeville, where one member shall be recommended by the city council of Abbeville, and two by the delegation in the general assembly; in the county of Aiken, where one member shall be recommended by the city council of Aiken, and two members by the delegation in the general assembly; in the county of Chesterfield, where one member shall be recommended by the county treasurer, the county superintendent of education and the county supervisor, one member by the town of Cheraw and one member by the delegation in the general assembly; in the county of Georgetown, where one member shall be recommended by the city council of Georgetown, one member by the county board of education and one member by the delegation in the general assembly; in the county of Lancaster, where one member shall be recommended by the town council of Lancaster and two members by the delegation in the general assembly. Each member of the board shall before entering upon his duties enter into a good and sufficient bond in the sum of \$5,000 with a surety company, the fee therefor to be paid out of the profits of the dispensary, in the form prescribed by section 584, volume 1, code of laws, 1902. The board shall organize by the election of a chairman and a secretary from among their number. Each member of the board for his services shall receive \$3 per day for not exceeding 10 days in each month, and mileage, five cents per mile each way, traveling in the most direct route. Said board shall have the power and is hereby required to make from time to time, rules and regulations for the government of any dispensary under its control. The said board is hereby authorized and required to establish a dispensary or dispensaries as said board may deem proper, for the sale of alcoholic liquors and beverages as herein provided, and may close any dispensary so established except the dispensary located at the county seat when in their judgment the public good requires it: Provided, That in the county of Abbeville no dispensary shall ever be located outside of the city of Abbeville. The said board shall elect a dispenser for each dispensary, who shall have charge of same, under the supervision of said board; and who shall hold his position for 12 months, unless removed by the board in the exercise of its discretion; the said board may employ such clerks and assistants as may in their judgment be necessary and pay them, including the dispenser, such salary as the said board may fix: Provided, no salary or compensation shall be regulated or be made dependent upon the amount of sales. Said dispenser shall give bond in the sum of \$5,000 in the form prescribed by section 584, volume 1, code of laws, 1902: Provided, said bond shall be given in a surety company, or such personal bond as the law now allows.

"Sec. 6. The members of the said county dispensary board are hereby declared to be county officers, and are hereby authorized and empowered under the authority and in the name of this State to buy in any market and retail within the State liquors and beverages as provided herein: Provided, That the State shall not be liable upon any contract

for the purchase thereof beyond the actual assets of the dispensary for which the purchase is made. The members of the county dispensary board and all dispensaries shall be persons of known moral character and not directly or indirectly applicants for appointment.

"Sec. 7. The said board shall advertise in two or more daily papers in this State, and one weekly paper of the county, for bids to supply the kinds and quantities of liquor and beer to be bought. Such bids shall be only for the liquor and beer to be furnished during the three months following, and the kind and quantities shall be designated. The bids shall be sealed and there shall be no sign or mark upon the envelope indicating the name of the bidder. All bids must be sent by express or by registered mail to the county treasurer within 30 days after the first advertisement therefor. The county treasurer shall keep such bids without inspection or permitting inspection until the expiration of said 30 days, when they shall be opened in public by said board and the contract awarded to the lowest responsible bidder of each kind; the board reserving the right to reject any bid: Provided, no bid shall be opened until at least one week's notice of the time and place thereof shall be given in some newspaper published in the county, and said bid shall then be opened. Said award shall be forthwith published once in a newspaper published in the county. Said published statement shall include the grade of goods purchased, quantity purchased from whom purchased, price per gallon, or dozen packages, and the retail price at which the same is to be sold: Provided, however, no purchases herein mentioned or contemplated shall be made from any person, firm or corporation residing without the limits of this State.

"Sec. 8. It shall be the duty of the said board to cause an analysis of the liquors in stock to be made by some person competent to determine whether any of said liquors are adulterated or impure, to the end that no impure liquors shall be sold by dispensaries. If upon analysis it shall be determined that such liquors are adulterated or impure, the county dispensary board may retain the price thereof from the seller, or if they have been paid for, the said board shall not allow said liquors to be sold, and may, in the name of the State, institute an action against the seller for the recovery of the amount so paid.

"Sec. 9. The county dispensary board shall, during the first week of each month, make a sworn statement of the receipts, expenditures and liabilities of each dispensary for the preceding month, and cause the same to be published once in some newspaper published in the county during that week.

"Sec. 10. Each dispenser shall be a qualified elector of this State and a resident of the county in which the dispensary is located, who has never pleaded guilty or been adjudged guilty of violating any law relating to intoxicating liquors, who is not a keeper of a restaurant or place of public amusement, and is not addicted to the use of intoxicating liquors as a beverage.

"Sec. 11. Each dispenser shall daily deposit, to the credit of the county board, in a bank designated by the board, all monies received by him from sales.

"Sec. 12. The county dispensary board, before permitting any dispenser to offer any liquors for sale shall cause the same to be put into packages of not less than one-half pint nor more than five gallons and seal the same. The dispenser shall sell by the package only, and no person shall open the same or drink any of the contents on the premises.

"Sec. 13. All sales shall be for cash and at a profit to be determined by the board.

"Sec. 14. No sale or delivery permitted under this act shall be made on Sunday, on a general or primary election day, on a legal holiday, or between sunset and sunrise of any day, nor shall it be lawful for dispensers to ship liquors or beverages into a county where there is no dispensary, nor shall any common carrier transport such liquors or beverages from a county having a dispensary into a county having no dispensary.

"Sec. 15. No sale or delivery shall be made if the dispenser knows or has reason to believe that the purchaser is a minor, or is intoxicated, or is in the habit of using intoxicating liquors to excess, or if the parent, husband, wife, committee or guardian has made written request that no sale or delivery be made to such purchaser.

"Sec. 16. The dispenser shall sell only in a room fronting a public street, without pictures, mirrors or any ornaments whatever, inside or outside, and without any screen, curtain or other device for preventing the passing public from fully viewing what may be transpiring within; nor shall any restaurant, pool or billiard room or any other form of public amusement be run or conducted in the building in which said room is situated, nor shall any opening communicating with such be permitted.

"Sec. 17. The governor, county dispensary board, mayor or intendant of any city or town within which a dispensary may be located, are hereby given the power and authority to cause the places where sales are permitted by this act to be temporarily closed as often and for such time as the public good may demand.

"Sec. 18. On the first day of January, April, July and October in every year, the county dispensary board shall file with the clerk of court a sworn statement of the profits of each dispensary in the county for the three months preceding said dates respectively, which shall be recorded by him in a book kept for that purpose, and published forthwith by said board, once in a newspaper published within the county. The board shall file a copy thereof with each of the following officers: the county treasurer, the county supervisor, mayor or intendant where the dispensary is located, and the county superintendent of education; and upon the said days shall divide the profits into three equal parts; one-third to be paid to the county treasurer for ordinary county expenses; one-third to the county treasurer for the county school fund, or for roads and bridges as may be determined by the election provided for in section 3 of this act and one-third to the treasurer of the municipality in which said dispensary is located, for ordinary expenses, except in the counties of Abbeville, Union, Newberry and Lancaster, where the profits shall be equally divided between the counties for ordinary county purposes and the town or city where a dispensary is located for municipal purposes; and in the county of Georgetown, where one-tenth shall go to the public schools and the balance shall be equally divided between the county for ordinary county purposes and the city of Georgetown for municipal purposes; and in the county of Orangeburg, where one-half of the profits shall go to the municipality where such dispensary is located and the balance to be equally divided between the public schools of the county and the county for ordinary county purposes; and in the counties of Lee, Bamberg, Fairfield, Richland, and Florence, here one-fifth shall go to the public schools in the said counties and the balance to be equally divided between the town or city where the dispensary is located and the county for ordinary county purposes; and in the county of Sumter 10 per cent of the entire profits derived in the said county from all dispensaries located therein shall go to the general school fund; of the profits that remain one-half thereof that arise from each and every dispensary in said county shall go to the county for ordinary purposes, and the town or city in which a dispensary may be located shall retain the other one-half for ordinary purposes; and in the county of Charleston, where one-half shall go to the city and one-tenth to the school fund, one-fifth to general county fund and one-fifth to sanitary drainage commission of Charleston county for drainage purposes and working the public roads; and in the county of Hampton, where one-half of the profits shall go to the general county fund, one-fourth to the town or municipality in which said dispensary is located for the ordinary expenses of the town and one-fourth to the county treasurer for the county school fund.

"Sec. 19. Licensed druggists conducting drug stores and manufacturers of proprietary medicines, are hereby authorized to purchase alcohol for the purpose of compounding medicine tinctures and extracts that cannot be used as a beverage.

"Sec. 20. Any parent, husband, wife, committee or guardian giving the notice or request provided for in this act shall have a right of action against any dispenser violating such notice or request, and may sue for and recover damages therefor on the bond required of such dispenser.

"Sec. 21. All alcoholic liquors in possession of any person for unlawful use shall be seized without warrant, and if no action to recover same is begun, within 30 days from such seizure, or if such action be begun and the judgment of the court be adverse to the plaintiff, then such liquors shall be forfeited to the county in which same is seized, if there be a dispensary in said county, and disposed of as the county dispensary board may deem best; but if there be no dispensary therein, such liquors shall be destroyed publicly by the sheriff of the county.

"Sec. 22. Upon affidavit, which may be on information and belief, to the effect that contraband liquor is being unlawfully concealed, kept or stored in any place, a search warrant may be issued by any magistrate of the county empowering any officer or person who may be deputized to enter the said place by day or night and to search the said premises for the purpose of seizing the said contraband liquors therein concealed, kept or stored, which said liquor, when seized, shall be disposed of as hereinbefore provided for the disposition of unlawful liquors; Provided, That no dwelling house shall be searched in the night time.

"Sec. 23. Any person detected in the act of violating any of the provisions of this act shall be liable to arrest without warrant: Provided, a warrant shall be procured within a reasonable time thereafter.

"Sec. 24. Every person who disposes or rescues from a constable or other officer, or attempts so to do, any alcoholic liquors or beverages taken or detained by such officer charged with the enforcement of this law shall, upon conviction, be punished by imprisonment not less than three months nor more than 12 months, or by fine of not less than \$100 nor more than \$500.

"Sec. 25. Any person handling contraband liquor in the night time or delivering the same shall be guilty of a misdemeanor, and on conviction shall be punished by imprisonment

for not less than three months nor more than 12 months, or by a fine of not less than \$100 nor more than \$500.

"Sec. 26. Any wagon, cart, boat or any other conveyance, together with horses, mules or other animals and harness accompanying the same, transporting liquors or beverages at night, other than regular passenger or freight steamers and railway cars, shall be liable to seizure and confiscation, and the same to be duly advertised and sold and the proceeds sent to the county dispensary board, to be applied as hereinbefore directed as to the profits.

"Sec. 27. Any common carrier, or its agent or servants, or any person who shall carry or transport alcoholic liquors or beverages for unlawful use to any place or county where manufacture or sale of alcoholic liquors is prohibited, shall be deemed guilty of a misdemeanor, and upon conviction, shall be fined not less than \$100 and not more than \$500, or be imprisoned at hard labor for not less than 30 days or more than two years, or by both, in the discretion of the court.

"Sec. 28. Any person who shall in this State offer for sale, or solicit the purchase of any of the liquors or beverages mentioned in section 1 of this act, other than for personal use, whether for present or future delivery, shall be deemed guilty of misdemeanor, and upon conviction in a court of competent jurisdiction shall be punished by fine of not less than \$100, or imprisonment for not less than three months.

"Sec. 29. All places where persons are permitted to resort for the purposes of drinking alcoholic liquors or beverages are hereby declared nuisances, and the keeper or manager of such places, upon conviction shall be punished as provided in section 1 of this act.

"Sec. 30. Every person who shall directly or indirectly, keep or maintain by himself or by associating or combining with others, or who shall in any manner aid, assist or abet in keeping or maintaining any club room or other places in which any alcoholic liquors or beverages are received or kept for unlawful use, barter or sale as a beverage, or for distribution or division among the members of any club or association by any means whatever, and every person who shall receive, barter, sell, assist, or abet another in receiving, bartering or selling any alcoholic liquors or beverages so received or kept, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not less than \$100 or more than \$500, or by imprisonment for a term of not less than three months nor more than 12 months.

"Sec. 31. It shall be unlawful for any club, company, association or corporation, or any chartered company now in existence, or hereafter to be incorporated, for social, literary, or other purposes, within this State, to buy, sell, keep for sale, exchange, barter any liquor, wine, beer, bitters or other intoxicating spirits for any purpose whatever, either to members or to other persons or members, and any member knowingly belonging to any club, company, association or corporation which receives and dispenses intoxicating spirits contrary to the provisions of this section, shall be deemed guilty of a misdemeanor, and upon conviction thereof before a magistrate, shall be fined in a sum not less than \$30 nor more than \$50, or imprisonment in the county jail not exceeding 30 days, for each and every offense.

"Sec. 32. The payment of the United States special tax as a liquor seller, or notice of any kind in any place of resort or in any store or shop, indicating that alcoholic liquors are there sold, kept or given away, shall be held to be prima facie evidence that the person or persons paying said tax and the parties displaying such notices are acting in violation of this act, unless said person or parties are selling under appointment as prescribed by this act, they shall be punished by a fine of not less than \$100 nor more than \$500 or by imprisonment for a term of not less than three months, nor more than 12 months. Conviction in the United States court of illicit sales of liquor shall be taken as prima facie evidence of violation of the provisions of this act, and any distiller or manufacturer of liquors containing alcohol so convicted in the United States court shall, by reason of such conviction, forfeit the permit or license granted him herein, in addition to the other penalties herein provided.

"Sec. 33. Upon conviction of any person for the violation of any provision of this act, where punishment is not provided for, such person shall be fined or imprisoned at hard labor in the discretion of the court: Provided, the fine shall not be less than \$100, and the imprisonment not less than three months.

"Sec. 34. In any county in this State in which the dispensary has not been voted out by and under existing law, and until an election is held in such county as provided in this act, any dispensary now established therein shall be continued as a dispensary in said county under this act. There shall be appointed by the governor as soon after the approval of this act as practicable, a county dispensary board in such county in the same manner as is provided hereinbefore for appointment of such boards, whose duties and authority shall be the same as hereinbefore provided for such boards; said board is authorized to purchase from the proper State authorities the

stock on hand or so much thereof as may be necessary. The profits arising from the operation as heretofore in the operation of such dispensaries shall be divided as provided in section 18 of this act.

"Sec. 35. In the event that a dispensary be established under the provisions of this act in any county, and thereafter an election be held hereunder resulting in the disestablishment of the same, the county dispensary board in such county shall immediately close the dispensaries therein, dispose of the stock on hand for cash to some other county dispensary board or to purchasers outside of this State, apply the proceeds thereof, with any other assets, to the payment of outstanding obligations, and divide the net proceeds as hereinbefore provided for dispensary profits.

"Sec. 36. Any person, firm or corporation now engaged under license in the manufacture and sale of alcoholic liquors or beers, in counties have not heretofore voted upon the question of dispensary or no dispensary, is hereby permitted and licensed upon compliance with the following provisions, to continue such manufacture and sale until an election be held as herein provided, resulting in the prohibition of such manufacture, unless such license be sooner revoked by the general assembly. Such license is hereby granted upon payment annually in advance, to the county dispensary board in such county of a license fee graduated as follows: For a distillery using from three to 50 bushels of grain per day, \$500; for a distillery using from 50 to 100 bushels of grain per day, \$1,000; for a distillery using from 100 to 200 bushels per day, \$1,500; for a distillery using from 200 to 600 bushels per day, \$2,500; and for a distillery using over 600 bushels per day, \$5,000, and for breweries and bottling establishments manufacturing or bottling lager and rice beer or other alcoholic or malt beverages, the following sums, to-wit: such establishments using from one to 10 barrels per day, \$500; from 10 to 20 barrels per day, \$1,500; from 20 to 40 barrels per day, \$3,000, and for those using more than 40 barrels per day, \$5,000. Such licensee shall file with said board a bond to the State for the use of county in a sum of not less than \$5,000 nor more than \$20,000, to be fixed by the county dispensary board, said bonds to be based upon the size of the establishments, with good and sufficient surety conditioned upon the faithful compliance with the law: Provided, That no license is hereby granted to any person, firm or corporation, other than those now engaged in such manufacture and sale in counties wherein dispensaries are now established and in operation or to the successor or successors of any such person, firm or corporation approved by the county dispensary board, and no license shall hereafter be granted except in such counties and only to manufacturer and sell in one city therein of at least 20,000 inhabitants: Provided, further, That it shall not be lawful for such manufacturer to sell such liquors and beverages except in quantities and in the manner prescribed in the constitution: Provided, further, That such manufacturers shall not sell such liquors and beverages to any person, firm or corporation within the limits of this State, except to county dispensary board. In the application for a permit or license to manufacture liquors and beverages or beer, the applicant shall give the county dispensary board full power, to seize and take possession of any machinery or product on hand at the distillery or place where such applicant may manufacture such liquors or such beers and shall authorize said board to pay the U. S. government tax upon the same and dispose thereof as provided herein for contraband goods. The license fees herein provided shall be divided as provided for dispensary profits in sec. 18 & 34 of this act; and the term manufacturer wherever used in this act, shall include bottling establishments for malt liquors and brewers of beer may sell to such bottling establishments.

"Sec. 37. Any county may prohibit the manufacture and sale hereinafter licensed within its limits in the following manner: Upon the petition of one-fourth of the qualified voters of such county for an election upon the question of manufacture therein, being filed with the supervisor of said county he shall order an election submitting the question of manufacture or no manufacture, which election shall be petitioned for ordered, and conducted in the same manner as provided in sections 2, 3, and 4 of this act, except that the ballots be 'For manufacture,' and 'Against manufacture.'

"Sec. 38. It shall be the duty of the sheriffs, their deputies, magistrates, constables, rural police, city and town officials to enforce the provisions of this act. If they fail to do so it is hereby made the duty of the governor to enforce the same, and he is hereby authorized to appoint such deputies, constables and detectives as may be necessary; the salaries and expenses of such officers to be paid out of the profits of the dispensaries in counties wherein they may be established and out of the ordinary county funds in counties wherein they have not been established.

"Sec. 39. The office of dispensary auditor is hereby created. The governor shall immediately upon the approval of this act appoint a competent person as dispensary auditor