

**OPINION  
49-111**

February 10, 1949           (OPINION)

LEGISLATURE

RE: Two-thirds vote Necessary

Your letter of February 10 addressed to the Attorney General has been received and contents duly noted.

You request the opinion of this office as to whether House Bills 230 and 243 are amendments to the initiated measures covering sales, licenses and control of liquor.

Section 1 of House Bill 230 provides: "Before any person, association, co-partnership or corporation shall engage in the sale at wholesale of liquor within this state, such person, association, co-partnership or corporation shall obtain from the State Tax Commissioner a license authorizing such sale at wholesale, for which a license fee of five thousand dollars (\$5000) shall be paid, which sum shall be covered into the state treasury. Application for such license shall be made upon an application prepared by the state tax commissioner."

Chapter 259 of the Session Laws of 1937 known as the "liquor control Act" was an initiated measure approved by the electors of the state at the general election November 3, 1936.

Section 6 of the Act provides that before any person residing in the state of North Dakota shall engage in the sale at wholesale of alcohol and alcoholic beverages as defined herein, he shall first procure from the city or village where said wholesale business is to be conducted a license so to do, which shall be in the sum of not less than \$500.00, or more than \$1000.00, \*\*\*\*.

Under the initiated act no other license is required. It is clear, therefore, that House Bill 230 imposes a condition of wholesalers in addition to that provided by the liquor control act and it would, therefore, be an amendment and would require a two-thirds majority of all members elect in both houses of the Legislature.

On September 22, 1933, the electors of the state of North Dakota initiated the law authorizing the manufacture, sale and distribution of beer. Section 11 of the Act provides that any person, firm, corporation, partnership, or association regularly engaged in legitimate wholesale business within the state may be licensed to distribute beer by wholesale, and provides that each distributor shall pay a wholesaler's license fee of \$200.00 to be collected by the commissioner and paid to the state treasurer.

This law was amended by chapter 97 of the Session Laws of 1935 which received a two-thirds majority, but the license fee for wholesalers was not changed by this amendment. House Bill 243 proposes to raise the wholesaler's license fee from \$200.00 to \$500.00 and clearly is an amendment of the initiated measure enacted by the people in

September, 1933.

It is the opinion of this office, therefore, that House Bill 230 is an amendment of the initiated liquor control act of 1936 and that House Bill 243 is an amendment of the beer act of September, 1933, and, therefore, both of said bills would require for passage a two-thirds majority of all members elect in both houses.

For your information I enclose a copy of an opinion issued to the Honorable Palmer Levin under date of February 4, 1949, in which we have discussed somewhat in detail the law and decisions pertaining to the amendment of initiated laws.

WALLACE E. WARNER

Attorney General