Sec. 409.06. - Licensing requirements.

(a) *Application.* Any person desiring a license to sell intoxicating liquor shall make his verified application in writing upon a form approved by the liquor control commissioner of the state and shall file the same with the inspector. Such application form shall require that the following information be set forth upon the application, and such further information as may be required:

(1) The name and place of residence of the applicant.

(2) The location of the premises upon which the applicant proposes to sell such liquor and an exact description, including the proposed floor plan and seating capacity, of the particular place within the building structure where such sales are proposed.

(3) Whether the applicant has ever been engaged in a similar business and, if so, the location thereof and the date when so engaged. The application shall be signed and verified by the applicant in person and, if the applicant is a corporation, by an officer of the corporation.

(4) Whether applicant has ever used or been known by a name other than his true name; and if so, what was such name or names and information concerning dates and places where used.

(5) Street addresses at which applicant and present spouse have lived during the preceding ten (10) years.

(6) Kind, name and location of every business or occupation applicant has been engaged in during the preceding ten (10) years.

(7) Names and addresses of applicant's employers and partners, if any, for the preceding ten (10) years.

(8) Whether applicant has ever been convicted of any felony, crime or violation of any ordinance other than traffic. If so, the applicant shall furnish information as to time, place and offense for which convictions were had. The inspector and council shall not make use of any conviction or criminal record not available for lawful use under Minnesota Statutes, Chapter 364.

(9) Whether applicant has ever been engaged as an employee of or in operating a saloon, hotel, restaurant, cafe, tavern or other business of similar nature. If so, applicant shall furnish information as to the time, place and length of time.

(10) If the applicant is a partnership, the names and addresses of all partners and all information concerning each partner as is required of a single applicant. A managing partner or partners shall be designated. The interest of each partner in the business shall be disclosed. A true copy of the partnership agreement shall be submitted with the application; and if the partnership is required to file a certificate as to a trade name under the provisions of Chapter 333, Minnesota Statutes, a copy of such certificate certified by the clerk of district court shall be attached to the application.

(11) If the applicant is a corporation or other organization and is applying for an on-sale or off-sale license, the following:

a. Name, and if incorporated, the state of incorporation.

b. A true copy of certificate of incorporation, articles of incorporation, or association agreement and bylaws; and if a foreign corporation, a certificate of authority as described in Chapter 303, Minnesota Statutes.

c. The name of the manager or proprietor or other agent in charge of the premises to be licensed, the assistant manager(s), the food manager(s), and the beverage manager(s), giving all the information about said person(s) as is required of a single applicant in subparagraph (3) of this section.

d. The application shall contain a list of all persons who, singly or together with any other person, own or control an interest in said corporation or association in excess of five (5) percent or who are officers of said corporation or association, together with their addresses and all information as is required of a single applicant, except that applications for off-sale shall list all persons who own or control any interest in said corporation.

(12) Reserved.

(13) A copy of the Minnesota buyer's card or application therefor, and a copy of the federal retail dealer tax stamp or application therefor, received or submitted by the applicant.

(14) The amount of the investment that the applicant has in the business, building, premises, fixtures, furniture, stock-in-trade, and any other asset, and proof of the source of such money.

(15) The names and addresses of all persons, other than the applicant, who have any financial interest in the business, buildings, premises, fixtures, furniture and stock-in-trade; the nature of such interest, amount thereof, terms for payment or other reimbursement. This shall include, but not be limited to, any lessees, mortgagees, mortgagors, lenders, lien holders, trustees, trustors and persons who have cosigned notes or otherwise loaned, pledged or extended security for any indebtedness of the applicant.

(16) Whether or not all real estate and personal property taxes for the premises to be licensed that are due and payable have been paid, and if not paid, the years and amounts which are unpaid.

The applicant shall file with the inspector, with his application, the amount of the license fee herein fixed for the

particular license for which he makes application.

(b) *Investigation; issuance; etc.* The license inspector shall register the application in books kept for that purpose, one (1) for on-sale licenses and one (1) for off-sale licenses. He or she shall notify immediately the the chief of police and the chief of the department of fire and safety services of the fact that such application is filed. It is hereby made the duty of the license inspector, the chief of police and the fire chief to inspect and examine or have inspected and examined the premises described in the application and inquire into the character of the applicant and make report to the inspector of their opinion, whether the applicant is a proper person to receive such a license and whether the premises are suitable for such a business. Upon receipt of the reports, the inspector shall examine them and transmit them to the city council, together with his or her recommendations respecting the applicant or the place of business. Upon receipt of such reports and recommendations, the council shall consider the same and shall, by resolution, grant or deny the application.

Where the application is for an off-sale liquor license and the applicant is the holder of an on-sale nonintoxicating malt liquor license heretofore issued by the city council to sell such nonintoxicating malt liquor for consumption on the premises, the council shall not grant such off-sale liquor license until the applicant surrenders his license to sell nonintoxicating malt liquor for consumption on the premises. If an off-sale license is granted, the resolution granting it shall direct the inspector to issue the license whenever the bond hereinafter provided for has been approved and the liquor control commissioner advises the inspector that he approves of the issuance of the license to the particular applicant.

If an on-sale license is granted, such resolution shall direct the inspector to issue the same whenever the bond hereinafter provided for has been approved.

Should the application for a license not be granted, the resolution refusing the same shall authorize and direct the proper city officers to refund to the applicant the deposit made at the time of the filing of the application.

(c) *License qualifications.* No license shall be issued to anyone other than a person twenty-one (21) years of age or older, of good moral character and repute, nor, consistent with and subject to Minnesota Statutes, Chapter 364, to any person convicted of any federal, state or local crime or offense involving the manufacture, sale, distribution or possession for sale or distribution of intoxicating liquor, or of any crime under Minnesota Statutes, Section 152.09, Subdivisions 1(1), 1(3) and 2, or of any crime usable under Minnesota Statutes, Chapter 364, which directly relates to the occupation or business for which the license is sought.

(d) *Public hearing; notices.* No new license for either on-sale or off-sale shall be issued without a public hearing on the application. The notification requirements applicable to license transfers or change in licensed areas in section 409.11 shall be applicable in the issuance of such new licenses; provided, however, that such notice requirements may be waived by the city council by motion on the affirmative vote of five (5) members upon the following findings:

(1) That the application is in order and there exist no grounds for denial of the license;

(2) That the citizens' district council whose geographical area encompasses the proposed licensed premises consents to the waiver;

(3) That failure to grant the waiver, with the consequent delay in approving the license, would either cause exceptional and unusual hardship to the license applicant or would cause substantial hardships to the community for which the license is sought; and

(4) Agreement by the licensee that all licensed operations may be immediately discontinued, waiving all requirements of further notice and hearing, in the event of a directive from the department of safety and inspections as provided hereinbelow.

In any case in which the forty-five-day notice period has been waived, if the department of safety and inspections receives a complaint prior to the date the public hearing was originally scheduled or would have been scheduled, the said department shall immediately investigate the claim and recommend an appropriate course of action to the city council. If the complaint provides a basis for adverse action against the license, the said department shall direct that the licensee immediately discontinue all operations, and shall reschedule the public hearing before the city council or initiate an adverse action.

(e) *One license only.* Not more than one (1) off-sale retailer's license shall be directly or indirectly issued to any one (1) person or for any one (1) place in this city, nor shall any retailer's off-sale license be directly or indirectly issued for any place for which a license of another class has been granted. It shall not be a violation of this paragraph for a person who owns, directly or indirectly, or who has an interest in any intoxicating liquor license in this city additionally to own directly or indirectly or to have an interest in one (1) or more corporations owning or operating a hotel holding an intoxicating liquor license in connection therewith; provided, that such hotel shall have at least one hundred fifty (150) or more rental units.

(f) *Premises of license.* No on-sale or off-sale license shall be effective beyond the compact and contiguous space named in such license and for which the same was granted, except that an on-sale license granted for sales in the dining room of any hotel may permit sales of liquor with meals in additional dining rooms open to the public and specified in the license if meals are regularly served to guests therein. If meals are regularly served to guests in guest rooms in any such hotel, liquor may be sold in such guest rooms but only with meals; provided, that such guest rooms must be specified in the license granted. No sales shall be made upon the premises of an on-sale licensee except upon the ground floor; provided, however, that this limitation shall not apply to a hotel duly licensed to sell on another floor as in this section provided; and provided further, that a licensee shall be permitted to sell at a place in a building

other than the ground floor if a license has been granted for sales on a floor other than such ground floor. All licenses granted hereunder shall set forth the exact location within the building structure where such sales may be made and no sale shall be permitted except in that part of the premises defined in the license, except as provided in the following subsection (g).

(g) *Seasonal outside service areas.* The council may, by resolution, permit any licensee to sell or serve intoxicating liquors in areas outside the building structure on public or private property which are compact and contiguous with the structure containing the licensed premises. Property which is not connected to the licensed premises cannot be used as an outside service area if it is located across a right of way such as a street or alley; however curbside seating may be allowed at a sidewalk café subject to the restrictions of Chapter 106 of the Saint Paul Legislative Code. Such outside service areas shall be seasonal, and shall not involve an enlargement of the building structure. The seasonal outside service area license shall not be granted unless all the conditions of subsections (1) through (8) and all pertinent provisions of the zoning code are satisfied.

(1) *Public hearing; notices.* No seasonal outside service area license shall be issued without a public hearing on the application. The notification and hearing requirements applicable to license transfers or change in licensed areas in section 409.11 shall be applicable in the issuance of such seasonal outside service area licenses; provided, however, that the license may be issued prior to the expiration of the 45 days and the public hearing may be waived by the city council by motion on the affirmative vote of five (5) members upon the following findings (in addition to the findings that may be required under paragraph 2 below):

(a) That the application is in order and there exist no grounds for denial of the license;

(b) That the citizens' district council whose geographical area encompasses the proposed licensed premises consents to the waiver;

(c) That failure to grant the waiver, with the consequent delay in approving the license, would either cause exceptional and unusual hardship to the license applicant or would cause substantial hardships to the community for which the license is sought; and

(d) Agreement by the licensee that all licensed operations may be immediately discontinued, waiving all requirements of further notice and hearing, in the event of a directive from the department of safety and inspections as provided hereinbelow.

In any case in which the forty-five-day notice period has been waived, if the department of safety and inspections receives a complaint prior to the date the public hearing was originally scheduled or would have been scheduled, the said department shall immediately investigate the claim and recommend an appropriate course of action to the city council. If the complaint provides a basis for adverse action against the license, the said department shall direct that the licensee immediately discontinue all operations, and shall reschedule the public hearing before the city council or initiate an adverse action.

(2) *Consent of neighboring property:*

(a) *Consent of ninety (90) percent of owners within three hundred (300) feet:* The applicant shall present with his or her application a statement in writing with the signatures of as many of the owners of private residences, dwellings and apartment houses located within three hundred (300) feet of such premises as he or she can obtain to the effect that they have no objection to the granting of the license sought at the location proposed. Measurement shall be determined from property line of the licensed premises to the property line of the residential uses; provide, however, that where the licensed premises is located within a shopping mall or shopping center the measurements shall be determined from the nearest corner of the building in which the licensed premises is located to the property line of the residential uses.

(b) *Consent of sixty (60) to eighty-nine (89) percent of owners within three hundred feet:* If the applicant obtains the signatures of ninety (90) percent or more of such persons, the council may grant the license. If the applicant obtains the signatures of sixty (60) percent to eighty-nine (89) percent of such persons, the council may grant the license if the licensee demonstrates to the council in writing with respect to specific properties that a good faith effort was made to fulfill all petition requirements, and upon finding that issuance of the license would not interfere with the reasonable use and enjoyment of neighboring property and residences and would not bear adversely on the health, safety, morals and general welfare of the community. Such findings shall be based on the following considerations if the license were to be granted:

1. The effect on the surrounding community and institutions;

2. Noise and likelihood of adverse effect on residential occupants;

3. The possibility of increased traffic;

4. The character of the neighborhood;

5. Other like uses in the neighborhood.

(c) *Consent of less than sixty (60) percent of owners within three hundred (300) feet.* If the applicant fails to obtain the signatures of sixty (60) percent of such persons, the license shall not in any case be granted, unless the license applicant can illustrate to the city

council, in writing with respect to specific properties, that a good faith effort was made to fulfill all petition requirements, and that the results of such attempts showed a generally favorable disposition from the surrounding community toward the proposed licensed activity, and that the district council representing the area supports the request for the license by the applicant. The council may grant the license upon finding that issuance of the license would not interfere with the reasonable use and enjoyment of neighboring property and residences and would not bear adversely on the health, safety, morals and general welfare of the community. Such findings shall be based on the following considerations if the license were to be granted:

1. The effect on the surrounding community and institutions;
2. Noise and likelihood of adverse effect on residential occupants;
3. The possibility of increased traffic;
4. The character of the neighborhood;
5. Other like uses in the neighborhood.

(3) Off-street parking spaces may not be reduced by the establishment of an outside service area below the number of off-street parking spaces which would be required if the licensed premises together with the outside service area were to be newly constructed in conformity with the zoning code; provided, however, that this requirement may be modified by the council by resolution in accordance with the procedures and substantive criteria provided in section 409.08(11)e of this legislative code.

(4) No outside service area shall be permitted unless the licensee provides, in addition to other requirements of law, safety barriers or other enclosures to protect patrons from any hazards, including vehicular traffic.

(5) No outside service area shall be located on public property or upon any street, alley or sidewalk, nor shall such outside service areas hinder or obstruct vehicular or pedestrian traffic on any street, alley or sidewalk. Notwithstanding the foregoing, the sale and service of alcoholic beverages within a sidewalk cafe by a food establishment which is licensed as a restaurant under Chapter 331A of the Legislative Code and which is in compliance with the provisions of section 106.01 of the Legislative Code, is permitted.

(6) The council may deny any application for an outside service area where it has reason to believe, or may revoke its permission for such an outside service area where it is satisfied, that the impact of such outside service area on adjoining property will be, or has been, any of the following:

a. Loud, boisterous or disturbing noise levels;
b. Hazardous traffic conditions;
c. Offensive, obnoxious or disturbing odors;
d. Excessive litter;
e. Excessive artificial lighting;
f. Substantial decrease in adjoining property values; or
g. Any other condition inconsistent with the reasonable use and enjoyment of adjoining property and inconsistent with the health, safety, morals and general welfare of the adjoining neighbors or community.

(7) Permission to sell and serve intoxicating liquor in or upon any outside service area may be revoked by the council on three (3) days' notice to the licensee, pursuant to information received at a public hearing before said council. The information need not be received under oath, but must reasonably satisfy the council as to the existence of any or all of the conditions listed in subparagraph (5). The public hearing shall be conducted with such formal or informal procedures as the council may permit, so long as the licensee and any complaining parties have an opportunity to be heard.

(8) The licensee shall, with respect to any outside service area, comply with all applicable provisions of law and regulations in regard to the sale and service of intoxicating liquor, including, without limitation by reason of this specification, all applicable regulations contained in sections 409.08 and 409.09 of this chapter.

(h) *Zoning restrictions.* No license shall be issued for premises located within an area wherein such use of the premises is prohibited by the zoning code, nor within an area where such sales are forbidden by the state law or any other ordinance of the city.

(i) *License location restrictions.* These restrictions shall not apply to off-sale/brew pub license or off-sale brewery licenses.

(1) No off-sale license shall be issued for any place where nonintoxicating malt beverages shall be sold for consumption on the premises.

(2) No off-sale license shall be issued to any location within a half-mile radius of any existing off-sale establishment, except in the downtown business district, where the distance requirement shall be a radius of three hundred (300) feet. Notwithstanding the foregoing, no off-sale liquor establishment shall be located within a half-mile radius of the Xcel Energy Center.

(3) No license shall be issued for an off-sale location which is within three hundred (300) feet of

residentially zoned property, a park or a licensed child-care center, said three hundred (300) feet being calculated and computed as the distance measured from the property line of the premises or building proposed as the location for the off-sale liquor license to the property line of any residentially zoned property, park or child care center in the area for which the license is sought.

(i) The council may waive the restrictions set forth in paragraph (3) above relating to distance if it makes findings that such a license is not inconsistent with the health, safety, morals and general welfare of the adjoining neighbors or community. Factors which may be considered include, but are not limited to the following: the likelihood of increased noise, traffic, litter, loitering or unlawful behavior by patrons of the establishment, excessive artificial lighting, substantial decrease in adjoining property values, and the extent to which any of the potential problems can be addressed by conditions on the license.

(ii) In order to waive the restrictions relating to distance the council must first receive a petition from seventy-five (75) percent of the owners and tenants of all private residences, dwellings and apartment houses located within three hundred (300) feet of the proposed off-sale location stating that they have no objection if the waiver relates to residentially zoned property or a written statement consenting to the waiver by the director and/or owner of the child care center if the waiver relates to a licensed child care center.

(iii) An establishment holding a valid license on the effective date of this amendment shall not be affected by this limitation, but shall be entitled to have such license renewed so long as they are in compliance with all other requirements of law and there exist no grounds for adverse action against such license.

(j) *Other required permit.* No license granted hereunder shall be effective until a permit shall be issued to such licensee by the United States if any such permit is, in fact, required.

(k) *State restrictions.* No license shall be issued to any person in connection with the premises of another to whom no license could be issued under the provisions of the state liquor control act; provided, however, that this provision shall not prevent the granting of a license to a proper lessee by reason of the fact that he shall lease premises of a minor, noncitizen or a person who has been convicted of a crime other than a violation of this chapter or the liquor control act.

(l) *Reserved.*

(m) *Renewals.*

(1) An on-sale license renewal may be denied for any licensee who is delinquent in any payment or contribution to a health and welfare trust or pension trust.

(2) If on or before the expiration of the license the licensed business has discontinued its operation or closed for any reason, the council shall renew said license only upon the condition that the licensee shall reopen and restore the licensed business to full operation within the terms of the renewed license, or in the alternative, that the licensee shall make application for and obtain passage, approval and publication of a resolution for the transfer of said license within the term of the renewed license to another person. No license issued upon condition pursuant to this subsection shall be further renewed unless one (1) or the other of the above conditions has been fully met; provided, however, that the council may reissue a license for a business which has not been in full operation during the prior license year if the licensed premises were acquired by eminent domain or under the threat of eminent domain and the licensee has made a good faith attempt to relocate the business to another location.

(3) Any license which is not renewed pursuant to this paragraph (m) or for any other reason lapses and may be reissued pursuant to section 409.16

(n) *License near church or school.* No license, except an on-sale culinary, or on-sale wine or intoxicating malt liquor license issued to a restaurant as defined in section 409.15, off-sale/brew pub, or off-sale brewery license shall be issued for any premises located within three hundred (300) feet from any public or parochial school, church, or synagogue, said three hundred (300) feet being calculated and computed as the distance measured from the property line of the premises or building proposed as the location for the liquor license to the property line of any school, church, or synagogue in the area for which the license is sought.

Any licenses in force and effect on November 10, 1962, the location of which license is in conflict with the provisions hereof, may be renewed, transferred or otherwise dealt with in accordance with law, it being the intent of this paragraph that it be applied prospectively for proposed locations of licenses, and further it being the intent of this paragraph that the limitations set forth in this paragraph shall in no manner be applicable to any hotel or motel. Upon written petition signed on behalf of the school, church or synagogue located within three hundred (300) feet of the proposed location of the license, the council may by a five-sevenths vote disregard the provisions of this paragraph insofar as location adjacent to a church, school or synagogue of a proposed license is concerned.

(o) *Unlawful use of weapons.* If during any twelve-month period there are reported two (2) or more incidents involving unlawful use or handling of firearms, assault weapons or knives, as defined in section 225.01, on any licensed on-sale premises, a public hearing shall be conducted by the council. Any adverse action may be considered by the council pursuant to the hearing provisions of section 310.05

(p) *Prohibited interests.* A holder of a license as a manufacturer, brewer or wholesaler may not have any

interest or ownership, in whole or in part in a business holding a retail intoxicating liquor license or in the license so held, but a manufacturer or wholesaler of intoxicating or nonintoxicating liquor may use or have property rented for retail intoxicating liquor sales if the manufacturer or wholesaler has owned the property continuously since November 1, 1933. This provision shall not apply to off-sale/brew pub licenses or off-sale brewery licenses.

(q) *Prohibited interests: off-sale/brew pub, off sale brewery.* A brewer holding an off-sale/brew pub or off-sale brewery license may hold or have an interest in other retail on-sale licenses, but may not have an ownership interest in whole or in part, or be an officer, director, agent, or employee of, any other manufacturer, brewer, importer, or wholesaler or be an affiliate thereof whether the affiliation is corporate or by management, direction, or control. Notwithstanding this prohibition, a brewer holding an off-sale/brew pub or off-sale brewery license may be an affiliate or subsidiary company of a brewery licensed in Minnesota or elsewhere if that brewer(s only manufacture of malt liquor is:

(1) Manufacture licensed under Minn. Stat. § 340A.301, subd. 6, clause (d);

(2) Manufacture in another state for consumption exclusively in a restaurant located in the place of manufacture; or

(3) Manufacture in another state for consumption primarily in a restaurant located in or immediatley adjacent to the place of manufacture if the brewer was licensed under Minn. Stat. § 340A.301, subd. 6, clause (d), on January 1, 1995. Except as provided in Minn. Stat. § 340A.301, subd. 7a, no brewer as defined in Minn. Stat. § 340A.304, subd. 7a or importer may have any interest, in whole or in part, directly or indirectly in the license, business, assets, or corporate stock of a licensed malt liquor wholesaler.

(r) *Interest.* For the purposes of paragraphs (p) and (q) of this section, the term "interest":

(1) Includes any pecuniary interest in the ownership, operation, management or profits of a retail liquor establishment, and a person who receives money from time to time directly or indirectly from a licensee, in the absence of consideration and excluding gifts or donations, has a pecuniary interest in the retail license; and

(2) Does not include loans, rental agreements; open accounts or other obligations held with or without security arising out of the ordinary and regular course of business of selling or leasing merchandise, fixtures, supplies to the establishment; an interest in a corporation owning or operating a hotel but having at least one hundred fifty (150) or more rental units holding a liquor license in conjunction therewith; or ten (10) percent or less interest in any other corporation holding a license; and

(3) In determining whether an "interest" exists, the transaction must have been bona fide and the reasonable value of the goods and things received as consideration for a payment by the licensee and all other facts reasonably tending to prove or disprove the existence of a purposeful scheme or arrangement to evade the restrictions of this paragraph must be considered.

(s) *Nonconforming clubs; transition.* The restrictions and requirements in sections 409.06(h), 409.06(n), and 409.08(11) of this chapter shall not apply to licenses issued to a club under this chapter which at the time of application for an on-sale license held a private club license under former Chapter 404 of this Code for the same premises for which a license hereunder is sought or will be issued, for so long as the on-sale license remains at that location and the licensed premises is neither enlarged nor transferred. Such licensed premises will be deemed a lawful nonconforming use under the zoning code.

(Code 1956, §§ 308.03, 308.05, 308.07—308.11, 308.13, 308.15, 308.19, 308.26, 308.34; Ord. No. 17172, 10-23-84; Ord. No. 17173, 10-23-84; Ord. No. 17177, 10-23-84; Ord. No. 17229, § 1, 4-18-85; Ord. No. 17247, § 1, 6-6-85; Ord. No. 17289, § 1, 9-10-85; Ord. No. 17318, § 1, 12-24-85; Ord. No. 17328, § 2, 1-23-86; Ord. No. 17551, § 4, 4-19-88; Ord. No. 17562, § 1, 5-17-88; Ord. No. 17563, § 1, 5-17-88; Ord. No. 17631, § 1, 2-7-89; Ord. No. 17657, § 1, 6-8-89; Ord. No. 17676, § 5, 8-24-89; Ord. No. 17704, § 2, 1-16-90; C.F. No. 92-899, § 1, 7-9-92; C.F. No. 94-1033, § 2, 9-14-94; C.F. No. 94-1561, § 1, 11-16-94; C.F. No. 94-1563, § 1, 11-16-94; C.F. No. 95-478, § 2, 5-31-95; C.F. No. 94-1610, § 1, 6-7-95; C.F. No. 95-795, § 2, 8-9-95; C.F. No. 95-28, § 3, 8-16-95; C.F. No. 96-392, § 1, 5-8-96; C.F. No. 96-1116, § 1, 11-27-96; C.F. No. 98-92, § 1, 3-4-98; C.F. No. 00-971, § 1, 11-8-00; C.F. No. 02-1025, § 1, 11-27-02; C.F. No. 03-372, § 1, 5-7-03; C.F. No. 04-521, § 1, 7-7-04; C.F. No. 04-584, § 1, 7-7-04; C.F. No. 06-753, § 1, 9-13-06; C.F. No. 06-822, § 2, 9-27-06; C.F. No. 07-149, § 152, 3-28-07; C.F. No. 08-461, § 1, 6-4-08; C.F. No. 10-855, § 1, 8-25-10)