

RE: MERCHANTS' LICENSE AS APPLIED TO THE BEER LAW
IN MOBERLY.

May 18, 1933. ✓
✓ 5-22

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Mrs. Marion E. Lamb
City Attorney
Moberly, Missouri

Dear Madam:

Your letter dated May 3rd requesting an opinion from this office is in words and figures as follows:

"The City has for several years had a tax of \$50.00 a year on Soft Drink and Near-beer Parlors. The tax on Restaurants is \$30.00 a year. Now since this new Beer is legal several new places have opened up as restaurants, for the sole purpose of selling beer, they only keep enough food there to fall under the requirements of the law. Now the Near-beer Parlors are objecting to the additional \$30.00 tax when these new places sell the very same thing.

"Now the City of Moberly has an ordinance as follows: 'Except as otherwise particularly provided by this or some other ordinance of the city, any person, firm or corporation that may be engaged in the city in more than one line of business at one time in one building and under the same management, shall be required to take out only one license from the city, which shall be for the highest amount prescribed for any of the lines of business so engaged in by such person, firm or corporation.' Now would it not be within the law to rule that any place that sells beer falls under the class of a Soft Drink and Near-beer Parlor, and that since under the above ordinance only the highest license must be paid, could the city not hold that any restaurant that sells beer, becomes a dual business, that of restaurant and Near-

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beer Parlor, and be required to take out the highest of the two licenses, namely the \$50.00 one."

It is the opinion of this office that, under the provision of the City Ordinance of Moberly, Missouri, any person, firm or corporation that sells beer for retail consumption on the premises under the provisions of the present State Beer Law falls in the class of one operating a Soft Drink and Near-beer Parlor. It follows then that any restaurant that sells beer, operates a dual business that of restaurant operator and that of a soft drink and near-beer parlor operator, and one operating such a dual business is required, under the terms of your city ordinance to take out and pay for the highest of the two licenses namely the \$50.00 license.

Respectfully submitted,

WM. OPR SAWYERS
Assistant Attorney General

APPROVED:

ROY MCKITTRICK
Attorney General

WCS/AJ