

Robert Mastin
IN RE: Right of licensed druggist to sell non-intoxicating beer under Act approved March 15, 1933, legalizing manufacture and sale of beverage having not exceeding 3.2 per cent alcoholic content. *13139h Law 33*

April 6, 1933.

FILED

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Hon. Thomas A.J. Mastin,
Prosecuting Attorney - Jackson Co.,
Kansas City, Missouri.

Dear Sir:

You have submitted the following question and asked my opinion thereon:

"Can drug stores legally authorized to sell and keep intoxicating liquors in stock for medical use and consumption under the existing state and federal laws, and also, allowed to keep and sell certain medicines having more or less alcohol as an ingredient thereof, procure a permit and legally sell non-intoxicating beer for consumption in the drug store under the Act of the Missouri General Assembly approved March 15, 1933, legalizing the manufacture, inspection, sale and transportation of beer having an alcoholic content not in excess of 3.2 per cent by weight?"

Section 13139h of the said Act of the General Assembly of Missouri approved March 15, 1933 provides as follows:

"Before any permit authorized by this article shall be issued and delivered to any applicant therefor, such applicant shall take and subscribe to an oath that he will not allow any intoxicating liquor of any kind or character, including beer having an alcoholic content in excess of 3.2 per cent by weight, to be kept, stored or secreted in or upon the premises described in such permit ***"

This provision is intended to prevent intoxicating liquors from being illegally kept or stored or secreted in or on the premises of the permittee. Drug stores are legally authorized to handle intoxicating liquors for medical use and consumption under the existing state and federal prohibition laws, and also to keep and sell certain

medicines having more or less alcohol as an ingredient thereof, and the Missouri Act in my opinion is not intended to, and does not prevent the drug stores from continuing to handle as part of their regular drug business, alcohol, liquors and medicines having an alcoholic content which they were permitted to handle prior to enactment of the Missouri Non-intoxicating Beer Statute.

A licensed druggist can procure a permit to retail by the glass or by the bottle for consumption only on the premises where sold. Such permit does not authorize sale by druggist in original package of three, six, or twelve bottles, nor does it authorize sale in single bottles to be carried away from the premises.

If a druggist procures a merchant's permit to sell in original package of three, six or twelve bottles, he cannot retail by the glass or bottle for consumption on his premises; druggist must choose which permit he wishes, as he cannot have both a merchant's permit and a retailer's permit to sell for consumption on the premises during the same period of time.

Yours very truly,

EDWARD C. CROW

APPROVED:

Attorney General

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