

LIQUOR CONTROL ACT: If retail dealer sells intoxicating liquor without obtaining license from County Court, it is violation of Sec. 24 of Liquor Control Act. County Court not authorized to license wholesalers, distillers, manufacturers or brewers.

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May 24, 1934.



Hon. E.J. Becker,
Supervisor of Liquor Control,
Jefferson City, Missouri.

Dear Mr. Becker:

This department is in receipt of your request for an opinion with regard to the authority of the respective county courts to assess a license tax against all retail dealers engaged in the business of selling intoxicating liquor in the State of Missouri.

When analyzing the various provisions of the Liquor Control Act it is well to keep in mind the language of the Supreme Court of Missouri En Banc in the case of State v. Parker Distilling Company, 236 Mo. 219, l.c. 274:

"When we bear in mind the foregoing idea, that the liquor traffic in this state has no legal rights, save and except those expressly granted by license and the statute under which it is issued, then we can more clearly see that the state may impose such conditions, burdens and regulations as it may deem wise and proper, and no one who engages therein has a right to complain thereof."

Section 24 of the Liquor Control Act of Missouri provides:

"The County Court in each county is hereby authorized to make a charge for licenses issued to retail dealers in all intoxicating liquor, the charge in each instance to be determined by the County Court, by order of record, but said charge shall in no event exceed the amount provided for in Section 22 of this act, for state purposes."

It will be noticed that power is expressly granted by this section of the Act to the county courts to make a charge for licenses issued to retail dealers. However, the court is not authorized by the Act to license wholesale dealers, distillers, manufacturers or brewers. The charge for the license, however, must in no event exceed the amount provided for in Section 22 of the Act for state purposes.

Section 26 of the Liquor Control Act provides in part as follows:

"Whenever it shall be shown, or whenever the Supervisor of Liquor Control has knowledge that a dealer licensed hereunder, has not at all times kept an orderly place or house, or has violated any of the provisions of this act, said Supervisor of Liquor Control shall revoke the license of said dealer. *****"

Clearly, by reason of the power given the county courts by the General Assembly of the State of Missouri, if a retail dealer were to sell intoxicating liquor in the State of Missouri without having first obtained a license so to do from the County Court, it would be a direct violation of Section 24 of the Liquor Control Act.

If these facts be shown, the Supervisor of Liquor Control should, and it is his express duty, by reason of Section 26 of the Act, to revoke the state liquor license held by such person.

Respectfully submitted,

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APPROVED:

ROY McKITTRICK,
Attorney General

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