

LIQUOR CONTROL ACT: Eagles Lodge must obtain license from Supervisor of Liquor Control to handle 5% beer for sale to its members; restrictions in Sec. 15 and 15-a binding upon Eagles same as any other licensee.
April 19, 1934.

4-20



Mr. G. Derk Green,
City Attorney,
Marceline, Missouri.

Dear Sir:

This department is in receipt of your letter of April 11, 1934 requesting an opinion as to the following state of facts:

"The situation upon which I have been asked to obtain your opinion is this: the Eagles Lodge wishes to handle beer of 5% and less, for sale to their club members only and in the clubroom. They wish to know if they would be required to take out a license from the state for this, and if they would be subject to the regulations with reference to opening and closing hours. No beer would be sold to the public or other than members."

I.

ANY INDIVIDUAL, ASSOCIATION, JOINT STOCK COMPANY, SYNDICATE, CO-PARTNERSHIP, or CORPORATION SELLING INTOXICATING LIQUOR IS SUBJECT TO THE PROVISIONS OF THE LIQUOR CONTROL ACT OF MISSOURI.

Section 18 of the Liquor Control Act of Missouri provides as follows:

"It shall be unlawful for any person, firm, partnership or corporation to manufacture, sell or expose for sale in this state intoxicating liquor, as herein defined, in any quantity, without taking out a license."

Section 22 of the Liquor Control Act provides in part as follows:

"Malt liquor containing alcohol in excess of three and two-tenths (3.2%) per cent by weight and not in excess of five (5%) per cent by weight, manufactured from pure hops and/or pure extract of hops and/or pure barley malt and/or wholesome grains or cereals and wholesome yeast and pure water, may be sold by the drink at retail for consumption on the premises where sold, when the person, partnership or corporation desiring to sell said malt liquor by the drink at retail for consumption on the premises where sold shall have been licensed so to do by the incorporated city and county in which he proposes to operate his business, and has procured a license so to do from the State Supervisor of Liquor Control."

Intoxicating liquor is defined by the Liquor Control Act to mean and include alcohol for beverage purposes, alcoholic, spirituous, vinous, fermented malt or other liquors or combination of liquors, a part of which is spirituous, vinous or fermented and all preparations or mixtures for beverage purposes containing in excess of 3.2% of alcohol by weight.

It is apparent from a consideration of these sections of the law that it is mandatory for the Eagles Lodge, in order to sell beer having an alcoholic content of 5% by weight to obtain a license from the Supervisor of Liquor Control.

Section 15 of the Liquor Control Act provides:

"No person having a license under the provisions of this act shall sell, give away or otherwise dispose of, or suffer the same to be done upon or about his premises, any intoxicating liquor in any quantity on the first day of the week, commonly called Sunday, or upon the day of any general or primary election in this state, or upon any county, city, town or municipal election day."

Section 15-a of the Liquor Control Act provides:

"No person having a license under the provisions of this act shall sell, give away or otherwise dispose of, or suffer the same to be done, upon or about his premises, any intoxicating liquor in any quantity, between the hours of twelve o'clock midnight and six o'clock A.M."

These two sections of the law make it mandatory upon any person having a license under the provisions of this Act to comply with the provisions of same.

CONCLUSION

From a consideration of the foregoing, it is the opinion of this department that it is necessary for the Eagles Lodge to obtain a license from the Supervisor of Liquor Control of Missouri in order to sell beer of 5% and less, and having obtained the license, the restrictions imposed by reason of Sections 15 and 15-a of the Liquor Control Act would be binding upon the Eagles Lodge in the same manner as they would restrict any other licensee.

Respectfully submitted,

JOHN W. HOFFMAN, Jr.,
Assistant Attorney General

APPROVED:

ROY McKITTRICK,
Attorney General

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