

CITIES OF THE FOURTH CLASS.) May provide for an Excise Commissioner under
the Liquor Control Act.

3-22
March 31, 1934.



Hon. David L. Millar, Mayor
University City, Missouri

Dear Mr. Millar:

This department is in receipt of your letter of March 6, 1934, in which you request an opinion as to the following state of facts:

"The Board of Alderman of University City has before it a Bill providing for the regulation and control of the liquor business in this City.

University City falls within the category of cities in which the Legislature provides that liquor may be sold by the drink. I might also add that University City is a city of the fourth class and operating under a charter granted under the statutes pertaining to fourth class cities.

The Bill as introduced provides for an Excise Commissioner. Will you please advise us whether, in your opinion, this City has the right to make provision by ordinance for an Excise Commissioner?"

I.

A CITY OF THE FOURTH CLASS MAY
PROVIDE FOR AN EXCISE COMMISSIONER
UNDER THE LIQUOR CONTROL ACT.

Section 25 of the Liquor Control Act of Missouri provides:

"Section 2b. The Board of Aldermen, City Council or other proper authorities of incorporated cities may charge for licenses issued to manufacturers, distillers, brewers, wholesalers, and retailers of all intoxicating liquor, within their limits, fix the amount to be charged for such license, and provide for the collection thereof, make and enforce ordinances for the regulation and control of the sale of all intoxicating liquor within their limits, not inconsistent with the provisions of this act, and provide for penalties for the violation thereof."

Section 6960 R. S. Mo. 1929, as found in Article VIII Chapter 38, with reference to Cities of the Fourth Class provides in part as follows:

"The mayor, with the consent and approval of the majority of the members of the board of aldermen, shall have power to appoint a treasurer, city attorney, city assessor, street commissioner and night watchman, and such other officers as he may be authorized by ordinance to appoint.* * * *"

In the case of State vs. Dix, (Kansas City Court of Appeals) 141 S. W. 445, the Court had before it a statute authorizing the Boards of Aldermen of cities of the fourth class to provide by ordinance for the levy and collection of all taxes, licenses, wharfage, and other duties, and for neglect or refusal to pay the same, to fix such penalties as are or may be authorized by law or ordinance. The Court held:

"* * * Undoubtedly the powers conferred by the statute gave authority to the board of aldermen to provide by ordinance for the collection of the tax.* * * *"

Hon. David L. Millar.

-3-

March 21, 1934.

CONCLUSION.

In view of the foregoing, it is the opinion of this Department, that under Section 25 of the Liquor Control Act of Missouri, a city of the fourth class has the power to pass an ordinance providing for an Excise Commissioner.

Respectfully submitted,

JOHN W. HOFFMAN, Jr.
Assistant Attorney General.

APPROVED:

ROY McKITTRICK,
Attorney General.

JWH:MM