

INTOXICATING LIQUOR:

Corporation operating two wholesale liquor businesses in this State required to take out a wholesale liquor dealer's license for each place of business.

5-18

May 15, 1935.



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

Dear Sir:

This will acknowledge receipt of a letter from your office which reads as follows:

"We find ourselves facing a condition which we think is not covered by the present liquor control act.

"The Wagner Brewing Co., Granite City, Ill., have established branches at 3617 Hebert St. St. Louis, and 105 E. Coates St., Moberly. These wholesale permits were applied for and purchased by the Wagner Company at a cost of \$100.00 each. The company also pays the state gallonage tax of \$1.00 per barrel. The permits were issued as resident permits, and we are of the opinion that non-resident permits should have been issued. However, due to the fact that this is a very close question we are asking for an opinion to be rendered by your department.

"We are enclosing the applications for the two branches, as well as the two permits and all literature that pertains to this specific case. We would appreciate your opinion at the earliest possible date, so that we may advise the Wagner Brewing Company as to their status in this state."

Section 21 of the Liquor Control Act of the State of Missouri, found at page 84, Laws of Missouri, Extra Session, 1933-1934, specifies the amount to be charged and collected by the Supervisor of Liquor Control for issuing various kinds of liquor licenses. Said section was not repealed or amended by the Act of the 58th General Assembly, recently signed by the Governor. Said section provides in part:

"For the sale of intoxicating liquor by a wholesale dealer, or a wholesale liquor dealing agent, the sum of one hundred (\$100.00) dollars, for handling intoxicating liquor containing not in excess of five (5%) per cent of alcohol by weight; \*\*\*\*."

Said section provides further:

"For the sale of intoxicating liquors by every person residing without this state, who shall solicit, receive or take orders for the sale of intoxicating liquors within this state, by a wholesale liquor dealing agent, as herein defined, the sum of one hundred (\$100.00) dollars, for handling intoxicating liquor containing not in excess of five (5%) per cent of alcohol by weight; \*\*\*\*"

And further:

"Provided, however, the payment of one license by any non-resident liquor dealer, shall include the right to solicit business in this state by as many agents as he may wish to employ. \*\*\*\*"

Said section defines a wholesale liquor dealing agent as follows:

"The 'wholesale liquor dealing agent' is defined to be any person who solicits, receives or takes orders for the purchase and delivery of any intoxicating liquor to any person in this state."

We call your attention to Section 20, which is still

in force and effect, not having been repealed or amended by the new Act of the 58th General Assembly. Said section reads in part as follows:

"Section 20. On approval of the application and payment of the license tax herein provided, the Supervisor of Liquor Control shall grant applicant a license to conduct business in the state for one year from date of the license. A separate license shall be required for each place of business."

It is plain from a reading of Section 21, supra, that the payment of one license by a non-resident liquor dealer gives him the right to solicit business in this State by as many agents as he may wish to employ. However, according to your letter and files, the Wagner Brewing Company is doing more than merely soliciting business by agents. They have, in fact, established two branch offices in this State, and at both places are carrying on the business of a wholesale liquor dealer, including the storing and delivering of their products. We are informed by the corporation department that the Wagner Brewing Company has complied with the provisions of Section 4598, R. S. Mo. 1929, and has been licensed to do business in this State. This, in our opinion, would not have been necessary if they were only soliciting orders by agents.

Section 20, supra, plainly requires a license for each place of business and since the Wagner Brewing Company is operating two wholesale liquor places of business in this State and said places of business are doing more than merely soliciting orders for said company, it is our opinion that each place of business should be required to take out a resident wholesale liquor dealer's license.

Very truly yours,

J. E. TAYLOR  
Assistant Attorney-General.

APPROVED:

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ROY McKITTRICK  
Attorney-General.

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