

LIQUOR CONTROL ACT: County may exact a license from a wholesale beer dealer in the county where the premises are located.

June 22, 1935.



Hon. John A. Eversole,  
Prosecuting Attorney,  
Washington County,  
Potosi, Missouri.

Dear Sir:

This department is in receipt of your letter of June 17 in which you make the following inquiry:

"Under the new liquor law does the county have a right to tax a wholesale beer dealer? If so, can they be taxed in more than one county if they are doing business in several counties?"

"What about these wholesale grocer companies who cover several counties and claim they cannot be forced to pay a county tax because they received orders for their beer before delivering it?"

We assume that when you use the term "wholesale beer dealer", you refer to a dealer of 5% malt beer. Counties and cities are given authority by the Legislature to exact license fees from dealers of intoxicating liquors in every form. Section 25 of the Liquor Control Act provides:

"In addition to the permit fees and license fees and inspection fees by this act required to be paid into the state treasury, every holder of a permit or license authorized by this act shall pay into the county treasury of the county wherein the premises described and covered by such permit or license

are located, or in case such premises are located in the City of St. Louis, to the collector of revenue of said city, a fee in such sum (not in excess of the amount by this act required to be paid into the state treasury for such state permit or license) as the county court, or the corresponding authority in the City of St. Louis, as the case may be, shall by order of record determine, and shall pay into the treasury of the municipal corporation, wherein said premises are located, a license fee in such sum, (not exceeding one and one-half times the amount by this act required to be paid into the state treasury for such state permit or license), as the law-making body of such municipality, including the City of St. Louis may by ordinance determine. 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, located within their limits, fix the amount to be charged for such license, subject to the limitations of this act, and provide for the collection thereof, make and enforce ordinances for the regulation and control of the sale of all intoxicating liquors within their limits, provide for penalties for the violation of such ordinances, where not inconsistent with the provisions of this act."

#### CONCLUSION

In view of the above section, we are of the opinion that every wholesale beer dealer who holds a permit or license from the Supervisor of Liquor Control must obtain from the county a permit if the premises described and covered by the permit issued by the Supervisor of Liquor Control are within the confines of the county.

This conclusion also answers your question: "If so,

can they be taxed in more than one county if they are doing business in several counties?"

Wholesale grocer companies who cover several counties can be forced to take out a county license only in the county in which the wholesale grocer company is located. The question of wholesale grocer companies selling their products in several counties by taking orders is very similar to the question contained in Part 1 of this opinion.

Referring again to the contents of Section 25, we are again of the opinion that before the county can exact a license fee it is necessary that the permittee receive a permit from the Supervisor of Liquor Control, and the only county that can exact a fee, even though the grocer company be doing business through orders in a number of counties, is the one in which the premises are located.

This conclusion is further strengthened by the words contained in the parentheses "not exceeding one and one-half times the amount by this act required to be paid into the state treasury for such state permit or license".

Respectfully submitted,

OLLIVER W. NOLEN,  
Assistant Attorney General.

APPROVED:

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JOHN W. HOFFMAN, Jr.,  
(Acting) Attorney General

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