

NON-INTOXICATING BEER:

"Set ups" are not prohibited under the provisions of Non-Intoxicating Beer Act.

8-27

August 27, 1935.



Hon. H. W. Starling
Prosecuting Attorney
Miller County
Eldon, Missouri

Dear Sir:

This will acknowledge receipt of your request for an opinion which reads as follows:

"I have been asked to rule on whether a person holding a permit for the retail sale of 3.2 beer by the drink can also sell soda water, ice and etc. as 'set ups'. My attention has been called to the fact that Secs. 13139-2-1, 13139-2-17 and 13139-2-21 do not prohibit such sales and it occurs to me that this is probably true.

"I would appreciate an opinion as to just what a permittee can do with regard to selling 'set ups'."

There is no provision under the Non-intoxicating Beer Act that prohibits the sale of ice, soda water or any other liquids as "set ups" by a licensee holding a permit for the sale of malt liquor not in excess of 3.2% by weight.

It is our opinion that a holder of a permit for the sale of 3.2 non-intoxicating beer at retail is not prohibited from the sale of "set ups" on the premises covered by such permit. We wish to call your attention to Section 13139-2-1 of the Non-intoxicating Beer Act relating to the increasing of the alcoholic content of non-intoxicating beer by any person on the premises described in the permit. This section makes it the duty of the licensee to use every precaution in preventing the increasing of the alcoholic content of non-intoxicating beer.

Your attention is further directed to Section 13139-2-17 relating to the keeping, storing or secreting of intoxicating liquor upon the premises described in any permit by a licensee and also that the licensee shall not knowingly allow any other person, while upon the premises, to violate any law of this State.

Yours very truly,

RUSSELL C. STONE
Assistant Attorney-General.

APPROVED:

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

RCS/afj