

LIQUOR CONTROL ACT:  
APPROPRIATIONS:

State liquor stamps cannot be paid for out of money appropriated to the Liquor Department for general operating expenses.

---

June 16, 1936

6-27



Honorable Forrest Smith  
State Auditor  
Jefferson City, Missouri

Dear Sir:

This will acknowledge receipt of your letter requesting an opinion from this department which reads as follows:

"In Section 25, page 29 of the 1935 Laws, is an appropriation made to the Treasury Department for the purchase of liquor stamps. This appropriation is now exhausted and I have been advised by Mr. Becker of the Liquor Department that it will be impossible for him to collect any more revenue from liquor without the stamps.

"Section 33 on page 103 under Subdivision D-Operations is an appropriation of \$200,000 for the following purposes: 'General expenses consisting of communication, binding and printing, transportation of things, travel, stationery, office supplies and other general and miscellaneous expenses.' I am advised by Mr. Becker that in this appropriation he has a sufficient amount of money to pay for the printing of liquor stamps without effecting the other operations in his office. He contends that the printing of liquor stamps could be interpreted under the 'printing' in his appropriation.

"I would like an opinion from your office as to whether I can legally pay the printing of liquor stamps out of this appropriation made to the Department of Liquor Control."

Under the provisions of Section 35 of the Liquor Control Act, Laws of Missouri Extra-Session 1933-1934, page 90, it is made the duty of the State Treasurer to provide suitable state certificates and labels for the inspection, gauging and labeling of intoxicating liquors, and, upon demand, deliver such labels to the Supervisor of Liquor Control taking his receipt therefor and charging him with the same. Said section reads as follows:

"It shall be the duty of the State Treasurer, upon the taking effect of this act, to provide suitable and inimitable state certificates and labels for this inspection, gauging and labeling, having on each proper places for counter-signing by the State Treasurer and Supervisor of Liquor Control, and shall safely keep the same together with the plates used in making them, when not in actual use. The State Treasurer shall from time to time upon demand, deliver the aforesaid labels to the Supervisor of Liquor Control, taking therefor his receipt, and shall charge said Supervisor of Liquor Control with the same; and shall from time to time, as said Supervisor of Liquor Control makes returns of moneys collected in the course of his inspection, credit said Supervisor of Liquor Control's account with such sums, and shall keep a true and correct book account of his dealings with said Supervisor of Liquor Control."

The Fifty-eighth General Assembly, by Section 25, page 28, Laws of Missouri 1935, appropriated seventy thousand dollars (\$70,000.00) for the purpose of paying salaries of the employees of the Treasury Department for services incident to the administration of the laws pertaining to the manufacture and sale of intoxicating liquor, and other expenses of the Department incident thereto, including stamps for liquor inspection, for the period ending December 31, 1936. Ten thousand dollars (\$10,000.00) of said amount for the purpose of paying the salaries of bookkeepers, clerks, stenographers and temporary help, and sixty thousand dollars (\$60,000.00) for stamps for liquor inspection. Said section reads:

"There is hereby appropriated out of the State Treasury, chargeable to the general revenue fund; the sum of Seventy Thousand Dollars (\$70,000.00) for the purpose of paying salaries, wages and per diem of the officers and employees of the Treasury Department of the State for services incident to the administration of the laws of the State pertaining to the manufacture and sale of intoxicating liquors, and for other expenses of the Department incident thereto, including stamps for liquor inspection, for period ending December 31st, 1936, as follows:

"Personal Service:

Salaries, wages and per diem of  
bookkeepers, clerks, stenographers,  
and temporary help . . . . . \$10,000.00

Stamps for liquor inspection . . . . . 60,000.00

Total. . . . . \$70,000.00 "

The Legislature appropriated by Section 33, page 102, Laws of Missouri 1935, four hundred six thousand dollars (\$406,000.00) to the Department of the Supervisor of Liquor

to pay for the personal services, additions and operating expenses required in connection with the administration of the Liquor Control Act. Said section reads as follows:

"There is hereby appropriated out of the State Treasury, chargeable to the general revenue fund, the sum of Four Hundred Six Thousand Dollars (\$406,000.00) to the Department of the Supervisor of Liquor Control, to pay for the personal service, additions and operating expenses required in connection with the administration of the Liquor Control Law, passed by the Fifty-Seventh General Assembly, Extra Session, as follows:

"A. Personal Service:

Salaries and wages of Supervisor of Liquor Control, accountants, auditors, bookkeepers, inspectors, stenographers, clerks and other necessary employees. . \$200,000.00

"B. Additions:

Original purchase of transporting and conveying equipment, and necessary office furniture and equipment..... . 6,000.00

"D. Operation:

General expenses consisting of communication, binding and printing, transportation of things, travel, stationery, office supplies, and other general and miscellaneous expenses..... . 200,000.00

TOTAL ..... . \$406,000.00 "

No provision is made in the above section specifically providing for the purchase of stamps for liquor inspection.

Whether Sub-section (d) of the above section, which appropriates two hundred thousand dollars (\$200,000.00) for general expenses, would be broad enough to include the purchase of liquor stamps by the Liquor Department, if it were not made the duty of the State Treasurer to purchase same, it is unnecessary to decide. Section 35, supra, makes it the duty of the State Treasurer to furnish to the Supervisor of Liquor Control the stamps required for inspecting and gauging intoxicating liquor and the Treasury Department was specifically appropriated sixty thousand dollars (\$60,000.00) for the purpose of providing such stamps. In the face of said section and the appropriation to the State Treasurer we do not think that the Legislature could have intended that the money for the purchase of such stamps should be paid out of the fund appropriated to the Liquor Department for operation expenses.

Section 19 of Article X of the Constitution of Missouri, provides, in part:

"No moneys shall ever be paid out of the treasury of this State, or any of the funds under its management, except in pursuance of an appropriation by law; \* \* \* \*"

The purpose of the above constitutional provision is expressed in 59 Corpus Juris, Section 381, pages 235 and 236, which reads:

"The constitutions in many states provide that no money shall be paid or drawn from the state treasury or warrant drawn therefor except in pursuance of specific appropriations made by law. The object of such a provision is to prevent the expenditure of the people's funds without their own consent, expressed either by themselves in the state constitution or by their representatives in legislative acts.\* \* \*"

We think it plain from the above that the Legislature,

Honorable Forrest Smith

-6-

June 16, 1936

by making it the duty of the State Treasurer to furnish liquor stamps to the Supervisor of Liquor Control and by appropriating money to his Department for this purpose, did not intend that the money appropriated to the Department of Liquor Control for general operating expenses should be used to pay for the purchase of stamps to be used for liquor inspection.

It is, therefore, the opinion of this Department that the state liquor stamps cannot be paid for out of the money appropriated to the Department of Liquor Control for operation expenses.

Yours very truly,

J. E. TAYLOR  
Assistant Attorney General

APPROVED:

---

ROY McKITTRICK,  
Attorney General

JET:LC