

LICENSE:
MERCHANTS:

The legislature has determined that the license required "begins" on the date when the county collector approves the bond and grants the license, and that said license ends twelve months thereafter.

January 5, 1939

Mr. George O. Dalton
Collector of Marion County
Hannibal, Missouri



Dear Sir:

Your request for our opinion dated November 14, 1939, is as follows:

"It has been quite confusing to me to determine what power or authority, or who is to determine when a merchant's or manufacturer's license begins and when it ends. It is my understanding it has been the practice or precedent in the Counties for the Collector to determine when the license should begin and end, and sometime it is decided by the county courts by court order when this license should begin and end. Will you please advise me as to this matter at your earliest convenience?"

It is assumed that the license to which you refer is the license required in connection with the ad valorem tax on merchandise of merchants.

The legislature has determined that said license begins on the date the collector approves the bond given to guarantee payment of said tax, and ends twelve months thereafter, as will appear from the following.

Section 10077 R. S. Mo. 1929, Mo. Stat. Ann. page 8063, provides that said tax shall be paid.

Section 10076 R. S. Mo. 1929, Mo. Stat. Ann. page 8062, requires said license.

Section 10078 R. S. Mo. 1929, as amended Laws of Missouri 1935, page 407, Mo. Stat. Ann. pages 8063-8070, provides:

"Any person, corporation or copartnership of persons applying for a license to vend merchandise shall, before he or they shall receive such license, execute a bond to the state, with good and sufficient surety, conditioned that he will, on or before the first day of January next following, pay to the collector of the proper county the tax due upon such license; which bond shall be approved by the collector, and his approval indorsed thereon."

Section 10084, R. S. Mo. 1929, Mo. Stat. Ann. page 8067 provides that the county clerk shall issue (to the collector, Section 10085, R. S. Mo. 1929, Mo. Stat. Ann. page 8068) blank licenses at the direction of the county court, and provides that the authority of the license shall extend "for twelve months".

Section 10093, R. S. Mo. 1929, Mo. Stat. Ann. page 8070, in part provides:

"Each collector, at each regular term of the county court, shall return on oath: First, all blank licenses not granted by him; second, a list of all licenses granted by him and not before accounted for, showing * * * the commencement and termination of each license granted by him."

The statutory provisions above cited and quoted have this effect: The county clerk must, at the direction of the county court, issue blank licenses to the collector. Said license must be obtained by merchants from the collector. But before a merchant can obtain said license, he must furnish a bond. It is the duty of the collector to approve or disapprove said bond. Inasmuch as the collector has no legal authority to issue said license until he has approved said bond, the license

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can not begin until the bond is approved; the license does begin on the day when the bond is approved. The collector should fill in the blank license accordingly.

As a general illustration: If a license becomes effective on February first, the bond makes certain the payment of the tax on the following January first. On the following February first, a bond makes certain the payment of the tax on the following January first.

CONCLUSION

In our opinion, the legislature has determined that the license (required by Section 10076 R. S. Mo. 1929, Mo. Stat. Ann. page 8062) "begins" on the date when the county collector approves the bond (required by Section 10078 R. S. Mo. 1929, as amended Laws of Missouri 1935, page 407, Mo. Stat. Ann. pages 8063-8070) and grants the license, and that said license ends twelve months thereafter.

Respectfully submitted,

LAWRENCE L. BRADLEY
Assistant Attorney General

APPROVED:

W. J. BURKE
(Acting) Attorney General
EH:RT