

LIQUOR CONTROL:  
LICENSING OF A  
CORPORATION:

The managing officer of a corporation which desires to obtain a license to sell intoxicating liquor is not required to be a resident and taxpaying citizen of a town or village in which he proposes to sell intoxicating liquor.

June 24, 1939

6  
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71

Honorable Walker Pierce, Supervisor  
Department of Liquor Control  
Jefferson City, Missouri

Dear Mr. Pierce:

This is in reply to yours of recent date wherein you submitted the following question:

"The Crown Drug Company, Atlantic & Pacific Company, Kroger Grocery Stores and Katz Drug Company operate places of business in the state in counties and towns other than the county and town in which their principal office is located. It is my contention that this section requires the application to be made by the manager of the local store even though he could hardly qualify as the managing officer.

"I am inclined to this view for the reason that I think the legislature intended that the city council should have a right to pass upon the qualifications of an applicant whom they knew and who had lived in their city for the proper length of time."

The section of the liquor law which is applicable to your question is found at Section 27, page 533, Laws of Missouri, 1937, which provides in part as follows:

"No person shall be granted a license hereunder unless such person is of good moral character and a qualified

legal voter and a taxpaying citizen of the county, town, city or village, nor shall any corporation be granted a license hereunder unless the managing officer of such corporation is of good moral character and a qualified legal voter and taxpaying citizen of the county, town, city or village;  
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The qualifications set out in the foregoing section seem to apply to all persons or corporations who desire to sell intoxicating liquor in this state.

The only question involved in your request is whether or not the managing officer who applies for the license to sell liquor for the corporation must be a resident of the county, city, town or village in which he proposes to sell intoxicating liquor.

Section 27 aforesaid is somewhat ambiguous and uncertain on this question. It provides that the corporation may obtain the license through its managing officer who must be of good moral character and a qualified legal voter and taxpaying citizen of the county, city, town or village. This section is silent on the question of whether or not he must possess these qualifications in the locality in which the corporation proposes to sell the liquor or in the locality in which he resides. This section could easily be construed to mean that he must possess these qualifications at the place which the corporation proposes to sell the intoxicating liquor. However, on this particular question there are other things to be taken into consideration.

There is no doubt but that the managing officer is the one who is required to make the application. It is a well known fact that the various chain stores throughout the state do not have a managing officer in every locality in which they have a store. From a reading of the intoxicating liquor act there is no doubt that the lawmakers have intended to grant the same privilege to corporations to sell intoxicating liquor

as they have granted to individuals.

While the law provides that the managing officer is the person who shall make the application for the license, yet it is the corporation to whom the license is granted and it is the corporation to which the state is looking for the faithful performance of the duties of the licensee. In case a suit is brought on the bond the corporation is the one to whom the state is looking for the violation of the provisions of the bond. By placing the requirement on a corporation that the managing officer should reside in the locality in which the intoxicating liquor is expected to be sold would be imposing an impractical and almost impossible duty on such applicants.

On the question of construing statutes under circumstances similar to those involved in this case we think in *State ex rel. Gass v. Gordon*, 181 S. W. 1016, the court has well stated the rule:

"Statutes should receive a sensible construction such as will affect the Legislative intention, and if possible so as to avoid an unjust or an absurd conclusion."

And in *Hawkins v. Smith*, 147 S. W. 1042, the rule is stated:

"Where possible, a statute will not be construed so as to lead to evil, oppressive or absurd consequences or to self-contradiction."

To place the construction on this statute that the managing officer must reside in the locality in which the corporation proposes to sell intoxicating liquor would be in violation of the rule of statutory construction as stated in the *Gass* and *Smith* cases, *supra*, because it would place a duty upon the corporations which they are unable to perform even though the clear intention of the statute is that they may be permitted to sell intoxicating liquor. Such a construction would be injurious

absurd and oppressive on the applicants. In *Bowers v. Missouri Mutual Association*, 62 S. W. (2d) 1058, another rule is stated which is applicable here:

"In arriving at Legislative intent, doubtful words of the Statute may be enlarged or restricted in meaning to perform to law-makers' intent when manifested by aid of sound principles of interpretation."

And in *State v. Irvine*, 72 S. W. (2d) 96, another rule is announced which is very appropriate here:

"Statutes will not be so construed as to require impossibility or lead to absurd results if susceptible of reasonable interpretation."

Applying the two foregoing rules to the question here this statute is doubtful on the question of where the managing officer should reside. By applying the rule of giving the construction to the statute which will not impose an impossibility on the applicant for the license in this case and keeping within the general intent and purpose of the act, then it seems that Section 27, supra, could be construed to mean that the managing officer must be of good moral character and a qualified legal voter and taxpaying citizen of the town, county, city or village in which he resides in the state of Missouri. It does not mean that he must possess these qualifications in the locality in which the corporation proposes to sell intoxicating liquor.

#### CONCLUSION.

From the foregoing it is the opinion of this department that a corporation, through its managing officer, may obtain a license to sell intoxicating liquor in any city, town or village in the state providing such officer possesses the qualifications set out in Section 27 of the Intoxicating

Hon. Walker Pierce

- 5 -

June 24, 1939

Liquor Act in the town, city or village in which he resides.

We are further of the opinion that such managing officer is not required to be a qualified voter and taxpaying citizen of the county, town, city or village in which the corporation proposes to sell intoxicating liquor.

Respectfully submitted

TYRE W. BURTON  
Assistant Attorney General

APPROVED:

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(Acting) Attorney General

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