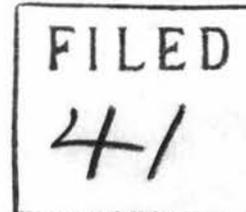


**INTOXICATING LIQUOR:** Missouri law does not prohibit the sale of intoxicants to persons who have formally been adjudged to be mentally incompetent.

February 7, 1951

2/9/51

Honorable Paul S. Hollenbeck  
Judge of the Probate Court  
Maries County  
Vienna, Missouri



Dear Sir:

Your recent request for an official opinion has been assigned to me to answer.

Your request states:

"Will appreciate it if you will advise me if there is any law prohibiting the sale of beer to a person who has been duly adjudged incompetent by the Probate Court.  
\* \* \* \*"

A thorough search of the laws of Missouri, including the regulations of the Liquor Control Department of Missouri, fails to reveal any law prohibiting the sale of intoxicating liquors to persons who have formally been adjudged mentally incompetent. Neither have we been able to find any Missouri cases touching upon this matter.

Section 311.310, R. S. Mo. 1949, does prohibit the sale of intoxicants to "an habitual drunkard," and makes such sale a misdemeanor. An "habitual drunkard" has been defined as one with "a fixed habit of drinking to excess;" one who has "a persistent habit of drinking to excess;" one who has "lost the will power to resist any intoxicating liquor offered to him." See *Ash v. Ash*, 64 N.E. 2d, 741; *Blunk v. Blunk*, 64 N.E. 2d, 787; *Griaietis v. Griaietis*, 48 N.E. 2d, 775; *Kessel v. Kessel*, 46 S.E. 2d, 792.

This prohibition against sales to an habitual drunkard appears to be the nearest approach in Missouri law to your point of inquiry.

Honorable Paul S. Hollenbeck

CONCLUSION

Missouri law does not prohibit the sale of intoxicants to persons who have formally been adjudged to be mentally incompetent.

Respectfully submitted,

HUGH P. WILLIAMSON  
Assistant Attorney General

APPROVED:

OK

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J. E. TAYLOR  
Attorney General

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