

January 20, 1965



Honorable Lloyd J. Baker
Representative, Randolph County
Route #3
Moberly, Missouri

Dear Mr. Baker:

Your predecessor in office recently requested an opinion of this office concerning the sale of liquor by-the-drink in Moberly, Missouri.

The first question asked was whether the city council could limit the number of licenses to sell liquor by-the-drink. Section 311.090, RSMo, authorizing the sale of liquor by-the-drink provides that the applicant be qualified as follows:

"Any person who possesses the qualifications required by this chapter, and who meets the requirements of and complies with the provisions of this chapter, and the ordinances, rules and regulations of the incorporated city in which such licensee proposes to operate his business, may apply for and the supervisor of liquor control may issue a license to sell intoxicating liquor by the drink" [Emphasis supplied.]

Thus a city may make ordinances, rules and regulations concerning the qualifications of an applicant for a license for the sale of liquor by-the-drink.

A city may not, however, prohibit the sale of intoxicating liquor within its boundaries by ordinance, rule or regulation, but may limit the number of licenses to sell liquor by-the-drink, if such limitation is not unreasonable, unjust or unduly oppressive or unfairly discriminating. See State v. Womach, Mo., 196 S.W. 2d 809, which held that a city may limit the number of original package liquor licenses. The reasoning in the case applies to a liquor by-the-drink license as well.

Honorable Lloyd J. Baker

-2-

The second question concerned the number of signatures required on the petition to call an election on the question of whether or not liquor by-the-drink shall be sold in a city. This question has been answered in an opinion to the Honorable Raymond H. Vogel, under date of June 25, 1951, which is enclosed.

Very truly yours,

NORMAN H. ANDERSON
Attorney General

Enclosure