

August 22, 1967

OPINION NO. 341
Answered by Letter-Birnbaum

Mr. John Harry Wiggins, Supervisor
Department of Liquor Control
State Office Building
Jefferson City, Missouri



Dear Mr. Wiggins:

This is in response to your letter of July 21, 1967, concerning the passage of Senate Bills No. 40, 41 and 42 by the Missouri 74th General Assembly which will become effective October 13, 1967.

Senate Bills 40 and 41 repeal Sections 311.230 and 312.080, RSMo 1959, and Senate Bill 42 repeals Sections 311.555 and 312.235, RSMo Cum. Supp. 1965. These Senate Bills, attached for your convenience, enact new sections relating to the same subject.

The effect generally of this legislation is that certain types of licensees no longer are required to provide a bond as a condition for obtaining a license. In regard to this legislation you stated:

"Two questions now arise in connection with which I must ask your legal opinion:

"1. Since the new laws are not effective until October 13, I assume this Department must continue to require bonds on new applications for liquor and beer licenses during the interim period although this seems a hardship on persons applying during said period. However, the amount of bond to be required is of

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interest. Should the full amount of the statutory bond be required or should it be only a percentage or pro rata amount until October 13?

"2. The period of license renewals due June 30 of each year has just been completed. All licensees furnished necessary bonds as required by the laws repealed effective October 13. I am now receiving inquiries from both licensees and bonding companies regarding the status of current bonds after October 13. Licensees are asking whether they may be entitled to a pro rata refund on the bonds just furnished for the current year and, if so, whether I will remove the bond from their files and return same to them. Bonding companies are apparently concerned about the same question."

The purpose generally of the bonds as noted in the sections repealed effective October 13, is to provide a means guaranteeing payment of taxes, license fees and inspection costs as well as any fines imposed for violation of the liquor laws. There are no provisions for pro rata or percentage amounts for bonds. The bonds in question are not conditioned on the length of the license period but to protect state interest in seeing that the liquor laws are obeyed. Any license requiring bond issued before October 13, 1967, must comply with the corresponding section of the liquor laws pertaining to that type of license and provide a bond in the full amount indicated therein.

Your second question concerning whether a licensee is entitled to a pro rata refund on bonds furnished for the current year is a private matter between the licensee and his surety or bonding company and for that reason will not be considered in this letter.

Our office has found no legal obligation on your part to return such bonds after the effective date of the Senate Bills.

The bond liability will extend to those violations occurring before the effective date of such bills. However, proceedings for recovery on the bonds may be instituted after the effective date of such bills and therefore, the bonds should remain in your files.

Yours very truly,

NORMAN H. ANDERSON
Attorney General

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