

LIQUOR LICENSE:

immaterial whether state, county or city license is procured first. The main thing is that each must be procured.

7-29

July 26, 1935.



Mr. P. C. Breit,
Prosecuting Attorney,
Andrew County,
Savannah, Missouri.

Dear Mr. Breit:

This will acknowledge receipt of your letter of recent date which is as follows:

"Section 22 of the Liquor Control Act provides that "Malt liquors containing alcohol in excess of 3.2 per cent by weight and not in excess of 5 per cent by weight * * * may be sold by the drink at retail for consumption on the premises where sold when the person, partnership or corporation desiring to sell malt liquors by the drink at retail for consumption on the premises where sold shall have been licensed so to do by the incorporate City and County in which it purposes to operate his business and has procured his license so to do from the State Supervisor of Liquor Control". Under this provision would a Supervisor of Liquor Control be authorized to issue a license for the sale of 5 per cent beer by weight on the premises regardless of whether or not the licensee, or applicant, had first obtained licenses from the City and County? In other words, could the Supervisor of Liquor Control authorize the sale of 5 per cent beer at any and every filling station along the public highways in a County which would not provide for a license authorizing such sales or where the County Court was opposed to such sales

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and refused to issue or provide for licensing of same?

"If the applicant for a license should first have to secure license from the City and County before he would be entitled to a license from the Supervisor of Liquor Control then it would be necessary for the City and County to provide for license under Section 25 of said Act in order to sell 5 per cent beer according to law.

"Your construction of Section 22 will be appreciated as I have been called upon by the County Court for my opinion in regard to same."

Replying thereto, we do not consider it important whether the licensee procures his license from the Supervisor of Liquor Control first and then from the city or county authorities.

The main thing is that if the licensee seeks to sell the licensed product and the premises are located out in the county, he must procure both the state license and the county license before he can legally sell the licensed product. The same observations apply if the licensed premises are located within the corporate limits of a city. In the latter event he must satisfy each of three bodies, the Supervisor of Liquor Control, the county court, and the city, and procure the license required by each of them in order to legally sell the licensed article.

Very truly yours,

DRAKE WATSON,
Assistant Attorney General.

APPROVED:

ROY McKITTRICK,
Attorney General.

DW:HR