

IN RE: LICENSING OF BEER ON DINING CARS. ✓

June 5, 1933. 16-7

FILED

Mr. Cyrus Crane
Solicitor for Missouri and Iowa
The Atchison, Topeka & Santa Fe Ry. Co.
1900 Fidelity Bank Building
Kansas City, Missouri

Dear Mr. Crane:

Your letter requesting an opinion of this office is in words and figures as follows:

"In a conference between General Crow and the writer at Jefferson City last month with regard to the sale of beer under the Missouri statute on dining cars operated by the Fred Harvey Company over the Santa Fe Lines, he suggested that we write you setting up the facts in our case and said he would take the matter up with you and obtain a ruling on the matter.

"Briefly, our position is that it works a hardship in the case of the Santa Fe to require a separate permit for each dining car due to the fact that most of our cars are transcontinental, operating between Chicago and Los Angeles, for example:

"Train 19, the "Chief", - the running time from Chicago to Los Angeles is 56 hours, mileage 2328, with a mileage of 188 in the State of Missouri, being 4 hours and 30 minutes in that State.

"Trains 23 and 24 have the same mileage from Chicago to Los Angeles, with running time of 65 hours, mileage 188 in Missouri, being 5 hours and 53 minutes in that State.

"Train 3 has the same mileage from Chicago to Los Angeles, with running time of 61 hours, being 4 hours and 45 minutes in Missouri.

"The only westbound train on which we could sell beer would be train 19 - the "Chief"; - as it is a daylight train between Chicago and Kansas City.

"Train 23, westbound, arrives in Kansas City in the morning, therefore we cannot sell beer on that train.

"Train 24, leaves Kansas City at 6:15 P.M., and we could sell beer on this train.

"Train 20 leaves Kansas City at 10:00 P.M. and Train 4 at 10:15 P.M. and we may be able to sell a few bottles of beer during the hot weather on these two trains.

"We have dining car service between Chicago and Kansas City on train 9 and Kansas City and Chicago on Train 23. We have two dining cars to cover this run, which cars are in the State of Missouri every other day, for 4 hours and 30 minutes in each instance.

"We feel that our case is distinguishable from that of lines operating mostly in the state of Missouri. If a separate license is required for each car, in our case the amount of beer sold would not warrant the payment of the license fee and would make it unprofitable to sell beer on our dining cars in Missouri. It is our thought that possibly the Attorney General will make a ruling favorable to our interests. We do not know just what form it might take but have in mind the issuance of a blanket permit, some means of prorating the time each dining car is in Missouri, or transferring the permits from car to car."

"We shall greatly appreciate your careful consideration of the merits of our case and your early communication to us of the ruling upon this matter."

After considering the facts presented in your request for an opinion in the light of the recent Beer Law, it is

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our opinion that it is necessary that any dining car coupled to the above described trains be licensed before beer be dispensed in said dining cars. A separate permit is required for each car except in a case where two diners are coupled on the same train; then, the license of one dining car so coupled would be sufficient for both.

We find no provision in the law for prorating the cost of licenses based on the number of hours one dispensing beer is actually open to the public for business nor do we find anything in the law that would justify one having a license to do business on one premise to use said license as a roving license for the privilege to retail beer on another premise, as in the case of a transfer from one railway dining car to another.

Respectfully submitted,

WM. ORR SAWYERS
Assistant Attorney General

APPROVED:

ROY McKITTRICK
Attorney General.

WOS/AJ