

Licenses, Distribution of Between County and State.

House Bill No. 112, approved March 2, 1905, changing the basis of distribution of licenses, does not affect licenses issued prior to the approval of such law, notwithstanding the fact that the money paid for such license is not received by the treasurer until after the approval of the new law.

March 24, 1905.

Hon. C. R. Stranahan, County Attorney, Boulder, Montana:

Dear Sir:—Your letter of the 23rd instant, requesting an opinion of this office as to the date upon which the county treasurer shall begin to make his distribution of moneys received from licenses under House Bill No. 112, approved March 2, 1905, to hand. It is also stated in your letter that there are a number of licenses in your county which were due prior to the approval of said House Bill No. 112, but for which the money was not paid into the treasurer until after the approval of such bill, the licenses when being issued dating from the date when the same was due.

In our opinion wherever a man has been engaged in business and his old license expired on or before March 2, 1905, and he, continuing in business, was liable for the payment of the new license to date from the expiration of his old one, that the distribution of the money received from such license should be made upon the basis of the law in force at the date such license should have been issued, and not upon the basis of the law in force at the time the treasurer actually received the payment for such license. In other words, the date of the issuance of the license controls as to the distribution of the proceeds received therefor and not the date upon which such money was actually received.

It would seem that where the party had failed to pay this license on the day that it should have been issued that he might be subject to the ten per cent penalty provided for in Section 4084, as enacted by the laws of 1897, p. 200.

You will therefore advise the county treasurer that all licenses, the date of issuance of which was on or prior to March 2, 1905, will be distributed between the county and state under the old law, regardless of the date when the treasurer actually received the money in payment of such license.

We have given no opinion to Mr. Ray upon the subject.

Respectfully yours,

ALBERT J. GALEN,

Attorney General.