

Saloons, License for Conducting. Liquors, License for Sale Of in Quantities More Than One Quart. License, for Conducting Saloon in Towns Having Population of Less Than One Hundred.

Under provisions of Section 2759 every person who engages

in the business of retail liquor dealer to sell liquors in quantities of less than one quart in towns or camps where the population is less than one hundred must obtain a license from the county treasurer. If the person did not sell in less quantities than one quart in such towns he would be guilty of the violation of Section 2760, but he would never the less be required to obtain a license under the provisions of Section 2759 to sell liquors.

March 18, 1911.

Mr. A. G. Hatch,
County Attorney,
Big Timber, Mont.

Dear Sir:

Your letter of March 16th has been received, requesting my construction of Sections 2759 and 2760 of the Revised Codes, and also asking my opinion upon the following proposition:

"What, if any, license may a person procure permitting the sale of spirituous, malt, or fermented liquors or wines in quantities of one quart or more, in towns of one hundred population or less, under the provisions of Sections 2759, and 2760 of the Revised Codes?"

Under the provisions of Section 2759, every person who sells or offers for sale any of the liquors mentioned in the Section must obtain a license as provided for in said section and it does not matter whether he sells in quantities of more or less than one quart.

Under the provisions of Section 2760, every person who engages in the business of a retail liquor dealer, being a person who sells the liquors mentioned in the section in less quantities than one quart in towns or camps where the population is less than one hundred, must obtain a license from the county treasurer, by first making the application to the board of county commissioners prescribed by the section and it is discretionary with the board as to whether or not they will order the county treasurer to issue the license. Of course, if a person did not sell in less quantities than one quart in towns, villages or camps where the population is less than one hundred, he would not be guilty of a violation of Section 2760, but he would not be permitted to conduct a saloon without obtaining a license so to do under the provisions of Section 2759. I respectfully call your attention to an opinion addressed to S. V. Stewart, county attorney, Virginia City, Montana, under date of June 6th, 1906, reported in opinions of attorney general, 1905-06, at page 349. This opinion answers the question which you have submitted and in that opinion it is stated that a person cannot be permitted to evade the law by securing a license to sell liquors in wholesale quantities to be consumed by his patrons on the premises. Whether a person is engaged in the wholesale or retail liquor business is a question of fact to be determined from the evidence respecting his methods of selling liquors.

You are advised that unless a person sells the liquors mentioned

in Section 2760 in less quantities than one quart, in towns, villages or camps having a population of less than one hundred he could not be guilty of a violation of this section, and if he obtained the license as prescribed in Section 2759 and did not violate Section 2760 as above stated, he would not be violating either of these sections. It is not our purpose to advise persons of the manner in which they may evade the law, and if the individual should obtain a license under Section 2759 and sell in less quantities than a quart, under the provisions of Section 2760, he should be immediately prosecuted.

Yours very truly,

ALBERT J. GALEN,

Attorney General.

State Coal Mine Inspector, Authority to Grant Permits for Men to Act as Mine Foreman, Fire Boss and Mine Examiner. Coal Mine Inspector, When May Grant Permits to Mine Foreman, Fire Boss and Mine Examiner.

The state coal mine inspector has power to grant permits to persons to perform the duties of mine foreman, fire boss and mine examiner who may be employed by any one engaged in the operation of coal mines in the state of Montana, until such time as the person so employed has had an opportunity to be examined as to his competency by the board of examiners appointed for that purpose.

March 20, 1911.

Mr. J. B. McDermott,
State Coal Mine Inspector,
Helena, Montana.

Dear Sir:

Your letter of March 17th has been received, requesting my opinion upon the following proposition:

"Under Chapter 69, Section 9-a, Eleventh Session Laws of Montana, and also under Senate Bill No. 66, passed by the recent session of the legislature, how and under what circumstances would the state coal mine inspector have authority to grant permits for men to act in the capacity of mine foreman, fire boss, or mine examiner in the coal mines in Montana; and how long a period of time would the permit if granted be allowed to run?"

In reply, I will say, that it was evidently the intention of the legislature to repeal Chapters 64 and 69 of the Eleventh Session Laws, instead of Chapter 64 and 65, as Chapter 65 has reference to an act to establish a legislative reference bureau in connection with the historical and miscellaneous departments of the state library and to provide for the maintenance thereof; but at any rate, Chapter 69 of the Eleventh Session Laws is practically re-enacted in Senate Bill No. 66 and is repealed by implication by this act. Under Section 36-a of