

East Helena is an incorporated town with a population of less than 2000 and is within a distance of five miles, measured in a straight line, from the City of Helena, which city, according to the last census, has a population of 11,803.

Paragraph (a), Section 1 of Chapter 221, Laws of 1939, except as otherwise provided in said chapter, fixes the sum of \$200.00 for each license fee outside of cities, towns, or villages, or in cities, towns, or villages with a population of less than 2000.

Paragraph (d), Section 1 of said chapter, fixes the sum of \$600.00 for each license fee in cities of a population of 10,000 or more, or within a distance of five miles thereof measured in a straight line * * * (Emphasis ours.) The phrase "or within a distance of five miles thereof," does not establish a village or incorporated town with a population of less than 2000 within the exception referred to in paragraph (a) of Section 1. If the applicant's place of business were outside of said village or town and within five miles of said city, then such a place of business would be within the meaning and term of said exception and the applicant would be compelled to pay either \$450.00 or \$600.00 for his license, dependent upon the population of the adjacent city.

It is, therefore, my opinion that applicants for licenses at East Helena and all persons similarly situated, are entitled to receive from the Montana Liquor Control Board a liquor license for the sum of \$200.00.

Opinion No. 169.

**Licenses—Retail Liquor Dealer—
Cities & Towns—Villages.**

HELD: Under the facts given, the license fee for retail liquor dealers in the town or village of East Helena is \$200.00.

November 29, 1939.

Montana Liquor Control Board
Helena, Montana

Gentlemen:

You have inquired of this office as to the proper liquor license fee to be charged retail liquor dealers in the town of East Helena.