

**Retail Liquor Dealers License—Towns of Over one Hundred—
Attempted Incorporation.**

Provisions of Chapter 71, Laws of 1905, page 154, do not apply to a license for the conduct of a retail liquor business in a town, city, village or camp containing a population of more than one hundred. The fact that plat had been filed with the County Clerk in contemplation of an incorporation of such town, where no corporation thereof was ever actually had, has no effect whatever in the fixing of the boundary of the town or camp for the purpose of determining its population under said law.

Helena, Montana, June 6, 1905.

John A. Matthews, Esq., County Attorney, Townsend, Montana.

Dear Sir: I am in receipt of your favor of the 5th inst., making request upon this office for an opinion respecting the application of Senate Bill No. 32, Chapter 71, Laws of 1905, page 154.

STATEMENT OF FACTS.

As I understand it, application has been made to the Board of County Commissioners of Broadwater County for a saloon license for the town, city, village or camp of Radersburg, in your County, signed by more than twenty resident free-holders of said town. It appears that all of the signatures appended to such application, are residents of the mining camp of Radersburg, but that there is a plat of the town of Radersburg on file in the office of the County Clerk and Recorder of your County, filed in contemplation of the incorporation of said town, and that many of those whose names appear as signers to said application, reside without the limits of the town, as shown by such plat.

QUESTION.

The question you present is whether or not those living in said town, but without the proposed corporate limits, as shown by the plat on file, can be computed in determining whether or not it comes within the provisions of said law, regulating the issuance of licenses to retail liquor dealers in cities, towns, villages or camps, containing a population of less than one hundred.

THE LAW.

It seems quite clear from the facts presented, that the town was never

actually incorporated and, therefore, the filing of the plat with the Recorder could have no effect in fixing its limits for the purpose of determining its status, under the license law above referred to. If the entire camp or town, independent of the boundaries of the plat on file, has a population of more than one hundred inhabitants, said license law does not apply.

Respectfully submitted,

ALBERT J. GALEN,

Attorney General.