

Butchers License—Peddlers License.

Under Section 4064 Political Code, as amended, buechers are not required to have a fixed place of business in the same sense as other merchants. Their place of business may be at their ranch or distributed out by wagon to customers throughout the county; when they have procured a butchers license they do not have to procure a peddlers license.

Helena, Montana, Nov. 18, 1905.

Hon. J. A. Matthews, County Attorney, Townsend, Montana.

Dear Sir:—Your letter of the 16th instant, in which you submit the following questions, received this morning:

“1. Under the peculiar wording of Sec. 4064 of the Political Code, as amended Session Laws of 1901, page 143, 144, providing “Every person who, at a fixed place of business, sells goods, wares and merchandise, etc. * * * And all butchers, must obtain from the County Treasurer * * * a license,” does the law require a butcher, in order to take out a license under this section, to have a “fixed place of business?”

“2. Could a butcher to whom such a license had been issued, sell meats at a ranch house as a place of business?”

“3. A rancher having taken out a regular butcher's license to sell meats, kills beef at his ranch house, takes orders for same and delivers same under such orders only, and by the quarter only, would he come under the provisions of the peddler's license law of 1905, Sess. Laws 1905, 177?”

“4. If the same man, while so delivering meats on orders, should sell a single quarter for which he had no previous order, would that act bring him within the peddler's license law and subject him to punishment?”

The question will be answered in the same order in which they are asked.

In answer to question one, you are advised that a butcher is not required to have a butcher shop or other fixed place of business in the same sense as a merchant or druggist. If he has a slaughter house, or other suitable place for killing his beef, and from which he sells the same, either by retail at that place or by distributing it to his customers by means of a wagon, and has paid the butcher's license required by section 4064, as amended, laws 1901, p. 144, he has complied with the law.

In answer to question two, you are advised that a butcher to whom a license has been issued may have no other place of business than his ranch house, which would be his place of business.

In answer to questions three and four, you are advised that a rancher who has taken out a regular butcher's license to sell meats, which he kills at his ranch house, may take orders for, and deliver the same, by the quarter, or he may haul such meat by wagon through the county and make sale and delivery at once under his regular butcher's license. He is not required to procure, in addition to his butcher's license, a peddler's license, under chapter 84, laws 1905.

From the language used in section 4064, as amended, it is clear that butchers are not placed in the same class with persons selling goods, wares and merchandise, etc., at a fixed place of business. Any doubt as to the construction of section 4064 is removed by the language used in section 4065, as amended, laws 1897, p. 199, which reads in part as follows: "and no further or other license is required of any butcher by reason of any wagon used in connection with his business." Under the regular butcher's license he could, pursuant to section 4064, as amended, sell meat at retail or upon orders taken, and under section 4065 he is required to pay no other or further license if he uses a wagon in connection with the sale of such meat. The butcher's license, however, does not extend beyond the limits of the county in which it is issued, and he would have no right to sell meat distributed with wagons to parties living outside of the county in which he procured a license.

Respectfully submitted,

ALBERT J. GALEN,
Attorney General.