

**Licenses. Licenses, Annulment of by Conviction.**

County Commissioners have no authority under Chap. 1, Laws 1905, to revoke licenses of a Retail Liquor Dealer doing business in a town of more than 100 inhabitants.

Under Sec. 4051, Pol. Code, conviction of a retail liquor dealer for violating laws relating to gambling or sale of intoxicating liquors is a revocation of the license.

Helena, Montana, June 28th, 1906.

Hon. A. J. Walrath, County Attorney, Bozeman, Montana.

Dear Sir: Your letter of the 26th inst., requesting opinion of this office, received.

The first question submitted by you is whether the board of county commissioners, under Chap. 71, Laws of 1905, have authority to revoke the license of a retail liquor dealer doing business in a town of more than 100 inhabitants and who has been convicted of selling intoxicating liquor to minors. You state that you have advised the commissioners that they have no authority to act under such law in such a case. In this you were correct, as said Chap. 71 relates only to retail liquor dealers doing business in towns, villages or camps, etc., where the population is less than 100.

Sec. 4051 of the Pol. Code, however, is a general law and applies to all persons to whom licenses have been issued. This section provides that "the conviction of any person for a violation of the laws in relation to gambling or the selling of intoxicating liquors, is a revocation of the license to such person." Under this section, the moment the man is convicted the license is revoked without any further action on the part of any officer or board. If the man continues to sell liquors after having been convicted of violating the gambling law or any of the laws relating to the sale of intoxicating liquors, he is conducting such business without a license and in a prosecution for conducting a business without a license all that would be necessary to introduce in evidence, would be a

certified copy of the record of conviction and evidence showing that he had engaged in such business since the date of such conviction.

However, it would do no harm and would keep the records in better shape to have a certified copy of the conviction of a person for violating the gambling law or laws relating to the sale of intoxicating liquors filed in the office of the county treasurer of the county where the person convicted was engaged in business in a city or town of over 100 population. Upon the filing of such certified copy of the record in the office of the county treasurer, he would be authorized to make an entry in his license books to the effect that the license theretofore issued to the person convicted was revoked by reason of such conviction. In such a case, no action by the board of county commissioners is necessary.

Very truly yours,

ALBERT J. GALEN,

Attorney General.