

License, Issuance of to Retail Liquor Dealers Under the Provisions of Chapter 71, Laws of 1905.

A freeholder residing within the limits of an incorporated city is a proper person to sign a petition directed to the board of county commissioners for the issuance of a retail liquor dealers license, under the provisions of Chapter 71, Laws of 1905, where he resides within the township in which the retail liquor dealer is to engage in business.

The word "township", as used in said act refers to the political rather than to the surveyors subdivision.

Helena, Montana, April 21, 1905.

Hon. J. F. Wegner, Chairman, Board of County Commissioners, Helena, Montana.

Dear Sir:—I am in receipt of your favor of the 15th instant, asking my opinion upon the following questions arising under Senate Bill No. 32, (Chapt. 71, Laws of 1905), viz:

1. Is a freeholder residing in the limits of an incorporated city a proper signer to a petition presented to the Board of county commissioners by a party intending to engage in business as a retail liquor dealer outside of the limits of such incorporated city, but within the township, where a portion of such incorporated city lies within the limits of the township wherein the applicant for license intends engaging in the liquor business?
2. Define the words "township," as used in said Bill?
1. After a careful examination of the law, I am of the opinion that any person who is a freeholder and a resident within the township,

whether the location of his residence is within the limits of an incorporated city or not, is a proper signer to the petition contemplated by said act. The law provides that a person who sells spirituous, malt or fermented liquors or wine in less quantities than one quart in all cities, towns, villages or camps where the population is less than one hundred, must before the county treasurer shall be permitted to issue a license to him, secure and file a petition to the board of county commissioners of the county, signed by at least twenty freeholders residing within the township in which any person seeking such license intends to engage in business, requesting the issuance of such license to such person, and that the board of county commissioners shall thereupon, in their discretion, direct the county treasurer to issue such license, but not otherwise.

It will be seen that the law does not except freeholders residing within the limits of an incorporated city from signing such petition. The only condition precedent to the right to sign is that the person signing shall be a freeholder and a resident of the particular township in which the retail liquor dealer desires to engage in business.

2. The word "township," as used in Section 1 of said Act, clearly has reference to the political rather than to the surveyors subdivision. The word "township" is used frequently in our laws with reference to the political subdivision, and it was the intention of the framers of said act in the use of the word "township" that the same should relate to the political rather than to the surveyors subdivision. If the word "township" were construed to mean the surveyors subdivision, as used in said law, it would be an utter impossibility for most saloonmen to obtain a license for the conduct of their business in cities, towns, villages or camps containing a population of less than one hundred.

Yours very truly,

ALBERT J. GALEN,

Attorney General.

P. S.—"Political Township" as used in the above opinion, refers to the subdivision of the county made by the commissioners for the election of constables and justices of the peace.