

Saloon License, Petition For. Gambling Law, Shooting Gallery Under. Shooting Gallery, Not a Gambling Device.

Under Chapter 15, Laws of 1907, the freeholders petitioning for a saloon license need only be residents of the political township, but are not required to reside within a mile of the location of the saloon.

Chapter 115, Laws of 1907, prohibiting gambling in this State, does not include wagers made by persons respecting their ability to hit the bulls-eye in a shooting gallery.

Helena, Montana, Aug. 1, 1907.

Theodore Lentz, Esq.,
County Attorney,
Glendive, Montana.

I am in receipt of your favor of the 24th. ult., in which you ask opinion of this office upon two questions by you presented.

1. Chapter 71, Laws of 1905, requires that a person who desires to engage in the business of a retail liquor dealer in a town, city, village or camp, having a population of less than one hundred, must, as a condition precedent to obtaining such license, secure a petition signed by at least twenty freeholders residing within the particular city, town, village, camp or township in which such business is to be established, and present the same to the Board of County Commissioners of the county, and obtain an order from such Board directing the Treasurer to issue such license, and by more recent legislation (Chap. 65, Laws 1907) "town" or "city" is defined in a somewhat similar police law to include all places having a bona fida permanent population of not less than thirty persons over the age of twenty-one years residing within a territory not exceeding one mile square, other than employes on certain works, and the question now arises whether or not the petition referred to in said Chap. 71, Laws 1905, should be signed by petitioners who reside within a territory not exceeding one mile square in which the camp or village is located, or whether it would extend to the entire township.

Chap. 65, Laws of 1907, in no way changes the law theretofore enacted and herein referred to respecting the issuance of the licenses to retail liquor dealers for the conduct of saloons in towns, cities or camps having a population of less than one hundred. It has heretofore been held by this office that if the persons whose names appear signed to the petition for issuance of such a license be resident freeholders within a particular political, rather than surveyor's township subdivision, the same shall be received (Opinions Attorney General 1905-'06, page 92.)

2. The second question is in substance as follows:

Is it a violation of the anti-gambling statute (Chap. 115 Laws 1907) for a person conducting a shooting gallery to make wagers with patrons respecting their ability to hit the bulls eye. After careful examination of said law I am of the opinion that it is not sufficiently broad to cover such wager (See Opinions Attorney General 1905-06, page 382).

Very truly yours,

ALBERT J. GALEN,
Attorney General.