

**Sheriff, Compensation of. Fees, of Sheriff Inspecting Licenses. Mileage, Sheriff Visiting Saloons. Deputy Sheriff, May Act for Sheriff.**

1. The Sheriff in visiting places where liquor is sold, and inspecting licenses, is entitled to receive ten cents per mile for the distance actually traveled.
2. Deputy Sheriff may act for and on behalf of the Sheriff in visiting places where liquor is sold and inspecting licenses.

Helena, Montana, June 10, 1909.

Hon. H. S. Hepner,  
County Attorney,  
Helena, Montana.

Dear Sir:

I am in receipt of your letter of the 9th instant, requesting an opinion on the following questions:

1. Can the duty of visiting saloons and inspecting licenses, imposed upon the sheriff by chapter 79, laws of 1909, be performed by a deputy sheriff?

2. Is the sheriff entitled to mileage, or other compensation for the discharge of such duty.

1. Section 350, revised codes, provides that a deputy:

"May perform the duties attached by law to the office of his principal."

Hence, an under-sheriff or a deputy sheriff may perform the duties of the sheriff in obedience to the commands of said chapter 79.

2. Said chapter 79, laws 1909, specifically commands the sheriff to visit the places therein named, at the times mentioned in the law. Hence, in doing this, he is

"in the discharge of his duties, both civil and criminal,"

and is entitled to receive therefor

"ten cents per mile for each and every mile actually and necessarily traveled."

Section 3137, revised codes

However, the sheriff would be justified in charging separate round-trip mileage for each saloon visited. The law, as expressed in section 3167, revised codes, relative to the service of papers, subpoenas, etc., would apply; that is, where the saloons are

"in the same place, or in the same direction,"

but one mileage can be charged,

"but mileage may be charged for the longest distance actually traveled;"

That is, the law contemplates that the sheriff, in making these visits, shall include in the one visit all saloons in the same locality, or on the same route, in the one trip.

Very truly yours,

ALBERT J. GALEN,

Attorney General.