

Saloon, Definition of. Prostitute, Saloon Conducted by.

A saloon does not necessarily constitute a large room with bar or bar fixtures. A stock of liquors kept in any manner for the purpose of retailing to any prospective purchaser, especially where a saloon license is procured, would constitute a saloon.

Helena, Montana, January 20, 1910.

Hon. J. T. Vaughn,
County Attorney,
Big Timber, Montana.

Dear Sir:—

I am in receipt of your communication of January 19, requesting a private opinion on the following proposition:

“Certain parties, who are not content with my interpretation of sections 8384 and 8385, revised codes of Montana, have asked me to write you for your opinion as to whether or not the proprietress of a house of prostitution, where beer is sold could be prosecuted under sections 8384 and 8385, revised codes of Montana; that is, whether or not these houses where beer is sold publicly are to be considered saloons?”

As the question you submit relates to a construction of the statutes of this state, and as the opinions of this office construing such statutes are necessarily official, whatever we say must be in the nature of a public official opinion.

As to whether the sale of beer by proprietress of a house of prostitution would make her subject to the provisions of sections 8384 and 8385 depends wholly upon the meaning of the word “saloon,” as used in such sections.

24 Am. & Eng. Enc. L. (2nd Ed.), page 1177, in defining the word “saloon,” says:

“In common parlance the word is used to designate a place where intoxicating liquors are sold, and this restricted meaning may be given to it where the context or other circumstances require it.”

See also 7 Words and Phrases 6310.

We do not understand that it is necessary, in order to constitute a saloon, that there should be a large room set apart for that purpose, or that there should be any elaborate bar or bar fixtures. If the facts in any case show that the person keeps on hand a stock of intoxicating liquors, which would include beer, for the purpose of selling the same to any and all customers desiring to purchase, and does sell such intoxicating liquors to such persons, then, in our opinion they would be conducting a saloon; especially, if the facts further show that such person has procured a county or United States government license authorizing them to retail beer or other intoxicating liquors.

It therefore follows that each case must be determined upon the particular facts and circumstances connected with the sale of the liquor.

Your attention is also called to section 8376, revised codes, which does not use the word “saloon,” but prohibits women from going into any premises

“where intoxicating, spirituous, vinous or malt or liquors are sold or used, when two or more persons are present.”

We also refer you to an opinion heretofore rendered to the county

attorney of Fergus county, on August 31, 1906. (Opinions of Attorney General, 1905-06, p. 390.)

Very truly yours,

ALBERT J. GALEN,

Attorney General.