

**Houses of Prostitution, Issuance of Retail Liquor Dealers License to Keepers Of. Administration of the Law, Duty of Local County and City Officials With Respect To.**

It is a general provision of the law that all persons engaged in the liquor business must first obtain a license, as shown by

the provisions of Section 2759, Revised Codes.

Where a license has been issued for the conduct of a retail liquor dealers business in a town, city or camp having less than 100 population, the board of county commissioners has authority to revoke such license for cause, but are without such authority where a town or city has a population of more than one hundred.

Section 2757, Revised Codes, provides that where any person is convicted of a violation of the law with respect to gambling, or the sale of intoxicating liquors, such conviction is, in itself, a revocation of the license granted to such person. And, as the conduct of a house of prostitution is a violation of the law, a license to retail liquor therein should not be granted when the character of the house is known.

It is the duty of the local county or city officials to administer the law without reference to this department, particularly when the character of such house is known to such officials, and this department will, upon request, advise such officials upon the law.

Helena, Montana, September 19, 1910.

Hon. Edwin L. Norris,  
Governor,  
Helena, Montana.

Dear Sir:—

I acknowledge receipt of your favor of the 16th inst., enclosing a communication addressed to you by E. H. McDowell, of Terry, Montana, relative to the issuance of retail liquor licenses to keepers of houses of prostitution.

In your communication you ask me to advise you of the law applicable to such matters and what relief, if any, there is in such cases. This subject has been considered by this office before, and in an opinion addressed to Roy E. Ayers, county attorney, Lewistown, Montana, bearing date of August 31, 1906 (reported in Opinions of Attorney General, 1905-06, page 390), we have held that the law makes no exception of women, and by general provision provides that all persons engaging in the liquor business must first obtain a license. The statute referred to is Section 2759, Revised Codes, which reads in part as follows:

“Every person who sells or offers for sale, directly or indirectly, any spirituous, malt, vinous, distilled or fermented liquors or wines, must obtain a license therefor from the county treasurer. \* \* \* \*”

Chapter 170, Laws of 1907, found in Sections 8382 to 8390 inclusive of the Revised Codes of Montana, commonly known as the “wine room law,” does not seem to cover the case of houses of prostitution because this law relates particularly to saloons. And from a careful reading of the statute, the word “saloon” is there used in the common acceptation of the term.

Sections 2760-61-62 of the Revised Codes seem to be sufficiently broad to confer full power and authority upon the board of county commissioners to revoke such a license, where same may have been issued for the conduct of retail liquor business in a town, city or camp having a population of less than one hundred. However, by these statutory provisions, they are without power or authority to act in cases of a town or city having a population of more than one hundred.

In other cases the only express authority contained in the law, under which such a license is revoked, is that provided in Section 2767, Revised Codes, which reads as follows:

"The conviction of any person for a violation of the law in relation to gambling, or the sale of intoxicating liquors, is a revocation of the license of such person."

prostitution in this state, and reads as follows:

Section 8379; Revised Codes, prohibits the conduct of houses of state, resorted to for the purpose of prostitution or lewd-misdemeanor."

ness, or who wilfully resides in such house, is guilty of a

"Every person who keeps a house of ill-fame in this

The conduct of such houses being prohibited by the law, there is no question in my mind but what a license for the retail of liquor therein, should not be granted, provided, of course, the character of such house is known or established in advance of the issuance of any such license.

If a retail liquor dealers' license has been issued for a town, city or camp, having a population of more than one hundred, and complaint is thereafter made against the proprietor or proprietress of the establishment, and conviction is had for violation of the law with reference to the conduct of houses of prostitution, there should be no difficulty under the terms of Section 2757 in obtaining a revocation of any such liquor license.

As you will readily understand and appreciate, in matters of this character, the local county and city officials are expected, and duty devolves upon them to administer the law, and the most that can be expected of my department is to give them advice with reference to the construction and applicability of the statutes. The character of such houses should be sufficiently well known to such officials that they would have little, if any, difficulty in applying and enforcing the law.

Yours respectfully,

ALBERT J. GALEN,

Attorney General.