

Liquor License, Renewal Of. Saloons, Renewal of License. Board of County Commissioners, Authority to Renew Liquor Licenses.

The board of county commissioners has no jurisdiction over the issuance of liquor licenses in incorporated cities and towns.

Any person desiring to renew his liquor license to engage in business in any place not within the corporate limits of any city or town must file his petition with the board of county commissioners and if objections are filed thereto, a hearing may

be had and the board may determine whether or not the license shall issue, from which decision an appeal may be taken to the district court.

October, 26, 1911.

Hon. H. C. Patterson,
Chairman Board of County Commissioners,
Dillon, Montana.

Dear Sir:

On March 11, 1911, in reply to a letter addressed to me under date of March 8th, I wrote you an opinion construing Chap. 92, Session Laws 1911, relating to the renewal of liquor licenses. At that time, it was my opinion that said Chap. 92, did not repeal Sec. 2760 Revised Codes, relating to licensing saloons in towns, villages and camps having a population of less than one hundred, but after further careful consideration of said Chap. 92, I think there is no doubt but what it repeals said Sec. 2760 by implication, and I now give you the following as my opinion with reference to the construction of said Chapter 92:

Sec. 1 of Chap. 92 prohibits any county or city in the state from issuing more than one license for every five hundred inhabitants in any city or town to any retail liquor dealer, provided any city or town may have two saloons. This section applies only to incorporated cities and towns, and places a limitation on city and county treasurers of one license for every five hundred inhabitants.

Sec. 2 of the act, if it has any application, relates only to persons regularly licensed in an incorporated city or town at the time of the passage and approval of the act, and provides that the act shall not affect their right to do business or to renew their license. However, the board of county commissioners has no jurisdiction over the issuance or reissuance of licenses to retail liquor dealers in incorporated cities and towns, but their jurisdiction only extends to places outside the corporate limits of a city or town.

By the provisions of Sec. 3 of said Chapter, every person who desires to engage in the business of a retail liquor dealer in any place not within the corporate limits of any city or town must obtain a license from the county treasurer, but before the county treasurer has authority to issue the license a petition shall first be duly filed and presented to the board of county commissioners, as provided by said section, and the issuance of the license by the treasurer depends upon the final decision on the petition.

Any person desiring to renew his liquor license to engage in business as a retail liquor dealer in any place not within the corporate limits of any city or town must file the petition provided by Section 3 of the Act, and the reissuance of renewal of his license depends upon the final determination of such petition.

You will therefore see that in incorporated cities or towns it is not necessary for a petition to first be presented to the board of county commissioners before the license may be issued, and the board has no jurisdiction over such licenses; but any person desiring to engage in business in any place not within the corporate limits of any city or

town must present his petition to the board for the issuance of a license to him, or a renewal of it, and the issuance or renewal of the license depends upon the result of the final determination on his petition. There is no limitation upon the number of licenses which may be issued outside the corporate limits of a city or town, but this depends entirely upon the final determination on the petition.

Yours very truly,

ALBERT J. GALEN,

Attorney General.