

**License, For Motion Picture Shows. Motion Picture Shows,  
License For. Theatre, License For.**

In the event a motion picture show is not held in a theatre building for which the annual license fee of \$100 is collected, such show should be required to pay a license fee of \$5.00 per performance.

August 5th, 1912.

Hon. Fred L. Gibson,  
County Attorney,  
Livingston, Montana.

Dear Sir:

I acknowledge receipt of your letter of the 1st inst., in which you ask my official opinion concerning the applicability of Subdivision 2, Sec. 2758, Revised Codes, relative to licenses to moving picture shows. You state that these licenses have been collected at the rate of \$100 per annum. You further call attention to the fact that the supreme court in the case of State vs. Penny, 42 Mont, 118, held that a moving picture show or house is not within the definition of a theatre within the meaning of that word as used in Sec. 8369, Revised Codes, prohibiting the keeping open of any theatre on Sunday.

It is my opinion that the Sec. 8369, above referred to and as interpreted by the supreme court in the Penny case, supra, relates to the place of the show rather than the show itself. However, it is my

opinion that the provisions of Subdivision 2, Sec. 8758, are applicable to a moving picture show and unless the show is held in a theatre, the manager or lessee of which pays the license tax of \$100 per annum specified in the first part of the said Subdivision 2, the show itself would be liable for the payment of the license tax, under the provision of said subdivision and section which is as follows:

“For minstrels, legerdermain or shows not herein provided for, five dollars for each single performance (when not in a theatre where a yearly license is paid).”

Unless, then, the moving picture show is conducted in a theatre paying the legal annual license, license should be collected for the show itself at the rate of \$5.00 for each performance.

Yours very truly,

ALBERT J. GALEN,

Attorney General.