

Retail Liquor Dealer's License. Petitions For. Protests Against.

Petitions for a retail liquor dealer's license, as well as remonstrances against the granting of the same, should be considered in full force and effect for a period of six months from the date of filing the original petition. Accordingly, upon filing new petitions for a license within the six months period, a new remonstrance petition need not be filed.

October 1, 1912.

Hon. A. G. Hatch,
County Attorney,
Big Timber, Montana.

Dear Sir:

I acknowledge receipt of your letter of the 18th ult., wherein you ask my official opinion upon the following state of facts:

"At the June meeting of the board of county commissioners * * * two petitions were presented to the board asking for the granting of license for the sale of intoxicating

liquors at retail * * * At the same meeting two remonstrances were presented protesting against the granting of such license * * * The petitions were denied.

"At the September meeting of the board two petitions were presented, signed by practically the same persons who signed the former petitions, and asked for the granting of license to the same persons who had petitioned before. At the September meeting no new remonstrances were presented."

You state that upon the above state of facts you advised the board of county commissioners that the remonstrances presented at the June meeting were to be considered as valid remonstrances against the granting of the license to the same parties upon the consideration of the petitions at the September meeting; and you ask my official opinion in answer to the following questions:

"1. What is the life of a remonstrance as against the application of parties, or representatives of parties who petitioned for a retail liquor license in towns of less than one hundred inhabitants?

"2. Does each new application for a license by a party require the preparation and presentation of a new remonstrance?

"3. Has the board of county commissioners a right to adjourn the hearing upon an application for a license for a reasonable length of time to allow a remonstrance to be circulated, signed, and presented?"

By the provisions of Sec. 2759, Revised Codes of 1907, a license for the retailing of liquor may not be granted for a shorter period than six months. Said section also makes provision for the amount to be paid semi-annually, for such license.

Chap. 92, Laws of 1911, provides for the issuance of a license in unincorporated towns and villages, and provides for the presentation to the board of county commissioners of a petition duly signed, as therein provided, and further provides:

"Before the board of county commissioners may act on any such petition, five days notice of such application shall be given by the county clerk and recorder by posting notices, etc."

It is my opinion that an application for a retail liquor dealer's license, under the provisions of Chap. 92, Laws of 1911, in view of the provisions of Sec. 2759, Revised Codes, above referred to, is necessarily for a period of six months from the date of such application, and that any remonstrance filed pursuant to the provisions of Sec. 3, Chap. 92, Laws of 1911, should be considered as of continuing force and effect, against the granting of the particular license in question for the full period of six months from the date of filing the original petition, and, therefore, in answer to the first two questions propounded in your letter I would state that the life of the remonstrance contemplated by Secs. 3, Chap. 92, Laws of 1911, would be six months from the date of the filing of the original petition for the granting of license, and that any new application for a license to the same per-

son, in the same place, made within such period of six months would not require a new remonstrance, but that the remonstrance filed to the original petition should be considered as of binding force and effect against the granting of the license on the renewal of the petition.

See 23 Cyc. 130, Note 43.

R. T. P. H. Co. v. Board, 19 R. I., 643.

Hensley v. Court, 115 Ky. 810.

In answer to your third question it is my opinion that the five days' notice provided for in Sec. 3, Chap. 92, Laws of 1911, is the minimum notice which must be given by the county clerk of the hearing of the application for the issuance of the license, and that the county commissioners may set a date for the hearing of such application at such time in the future, not less than five days, as may suit the convenience of the board, or may adjourn to a future meeting of the board.

Yours very truly,

ALBERT J. GALEN,

Attorney General.