

Retail Liquor License, Transfer of. Transfer, of Retail Liquor License. Revocation, of Retail Liquor License. Board of County Commissioners, Power of to Revoke Retail Liquor License. Intoxicating Liquors, Sale of After Revocation of License. Sale of Intoxicating Liquors, After Revocation of License.

It was the intent of the legislature to limit the transaction of business to the community or particular locality for which the liquor license was issued.

The selling of intoxicating liquors at some other place than that for which the license was issued would be a violation of the laws of the state, sufficient grounds for its revocation, and would be a revocation in toto.

A person who sells intoxicating liquors after revocation of his license is guilty of a violation of the laws of this state, and is subject to criminal prosecution.

January 8th, 1914.

Hon. J. A. Slattery,
County Attorney,
Glendive, Montana.

Dear Sir:

I am in receipt of your letter of December 20th, 1913, submitting for my opinion the following questions:

"1. May a retail liquor license in force in a specified unincorporated town or village be transferred to another unincorporated town or village or to another person in any other town or village of the same classification within the county?

"2. Has the board of county commissioners power to revoke a retail liquor license where the cause of the complaint against the licensee is that said license was transferred from an unincorporated town where originally granted to another unincorporated town of the same class within the same county?

"3. Where the board of county commissioners has made an order revoking a retail liquor license on the ground that the same was transferred from an unincorporated town where originally granted to another unincorporated town of the same class within the same county, does the order revoking subject the licensee to criminal prosecution for continuing his business pending his appeal to the district court from said order?

"4. Does an order of the board of county commissioners revoking a license because of a transfer from an unincorporated town where originally issued to another unincorporated town of the same class in the same county operate to prohibit selling liquors in town where originally issued; in other words, does it revoke the license in toto or merely prohibit the use of said license in any other town or place in the county except the place where originally issued?"

As to the first question I am of the opinion that such a license cannot be transferred or removed to another community of the same class for which the license was originally issued. Sec. 2749 is apparently intended by the legislature to limit the transaction of business for which licenses are issued to the community or particular locality for which such license was issued. To hold otherwise would make the words "in his town, city or particular locality" meaningless. It is a cardinal principle of statutory construction that all words in an

enactment must be given effect, unless to do so makes the law absolutely meaningless. Also the whole body of the statute law must be construed together as one law, unless the different parts thereof are entirely inconsistent. There is no necessary inconsistency here because the words "negotiable" and "transferable" may be given full effect without limiting the apparently intent of the legislature in Sec. 2759. Negotiable and transferable, as used in Sec. 2759, means only that the right to do business in a certain place may be transferred from one person to another. It does not mean that the business carried on under such right may be removed to other communities or that it may be enlarged, which would be the effect of holding that the words mean that the right may be carried from one community to another. The transferee of a license can get no larger or more extended right than the original licensee.

In answer to your second question, I will say that Sec. 2762 makes the revoking of a liquor license a matter entirely within the discretion of the board of county commissioners, the language being:

"Upon proof satisfactory to the board that such person or persons have violated any of the laws of this state, regulating the sale of intoxicating liquors, or that they have violated any of the provisions regulating persons so licensed to sell."

In as much as a license to sell intoxicating liquors is limited in its operation to that community for which it was originally issued, any sale of liquors at some other place is a violation of the laws of this state in regard to the selling of intoxicating liquors, and as such would be sufficient grounds for the revoking of a license already issued.

In answer to your third question, I am of the opinion that any person who attempts to or does sell intoxicating liquors after his license has been revoked, is guilty under the laws of this state. The reason for the board's action can have nothing to do with the fact that the license has been revoked and that a person operating in spite of the order revoking his license must clearly establish the illegality of the order before he is entitled to continue in business.

I am further of the opinion that there can be no part way revocation of a license. The ground upon which a license would be revoked under the facts stated by you in your fourth inquiry would be that the man holding the license had violated some law regulating the sale of intoxicating liquors. The revocation, therefore, would go to this right as a whole and not merely to the licensee's right to sell liquor at some other place than that for which the license was originally issued. It is upon his violation of the law of the state that such revocation could or would be made, and not upon the fact that he has attempted to extend the territory covered by the license. As was held in answer to the first question, the right under the license extends only to the community for which the license was issued. Therefore, it could not properly be held that the license could be revoked as to some new community since no such license

ever existed, and a revocation of the license would mean a revocation of the license as originally located for an infraction of the laws of this state.

Yours very truly,

D. M. KELLY,
Attorney General.