

Liquor Licenses, Who Entitled to. Licenses, Liquor, Who May Obtain. Hotel, Liquor License in When.

Held: That a hotel keeper whose place of business was located in a place where there were not fifty bona fide residents within a quarter of a mile, was not entitled to have a liquor license renewed without filing a petition signed by twenty freeholders residing within a radius of five miles.

August 3, 1916.

Hon. F. C. Webster,
County Attorney,
Missoula, Montana.

Dear Sir:—

I am in receipt of your communication under date the 6th ultimo, inquiring as to the jurisdiction of the Board of County Commissioners of your county to issue a saloon license for a hotel. It seems that the hotel is located in the mountains, and is conducted only as a summer hotel, being closed in winter. The last license of the proprietor expired December 31, 1916. The proprietor now asks that this be renewed to begin July 1st and December 31st of this year. The hotel is so situated that he cannot present a petition for a new license because there are not twenty freeholders living within five miles of the hotel. There is also the question of whether the fact that the bar is conducted in a building separate from the hotel does not disqualify him from having a license. Under the law hotels having twenty or more sleeping rooms are excepted from Section 2 of Chapter 87. If this provision stood alone, licenses might be issued to such persons, even though there were not fifty inhabitants within a quarter of a mile, after December 31, 1916; but under Section 4 where a license has once expired, the petitioner must have a petition signed by twenty freeholders for a new license. No exception appears in this provision as to hotels. Unless, therefore, a petition containing twenty names of persons residing within five miles, of the hotel was presented, the commissioners would have no authority to issue a license.

This office in a previous opinion has held that the bar of a hotel coming under Section 2 of Chapter 87, Laws of 1915, must be in the same building with the hotel, or connected therewith so as to make it practically an integral part of the building. I am of the opinion, therefore, under the facts stated by you, that a license could not be legally issued.

Yours very truly,
J. B. POINDEXTER,
Attorney General.