

Intoxicating Liquors—License—Right to Continue in Business Pending Appeal on Renewal of License.

Applicant for a renewal of saloon license may continue in business unless upon cause shown the County Commissioners order his place closed, and the Board of County Commissioners is without authority to issue license pending his appeal from the action of the Board.

April 3, 1917.

Mr. W. M. Black,
County Attorney,
Shelby, Montana.

Dear Sir:

I am in receipt of your letter of March 30th and have today wired you as follows:

"Applicant may continue to operate until final determination of appeal, unless for good cause shown and upon complaint of County Attorney or Sheriff Commissioners order place closed. Commissioners should not order re-issuance of license pending appeal."

You will note that by Section 5 of Chapter 87, laws of the Fourteenth Legislative Assembly, it is provided that the applicant for renewal shall be permitted to continue in business pending a final determination of his application, unless for good cause shown, and upon complaint of the County Attorney or Sheriff, the County Commissioners order the place closed.

There is provided an appeal to the District Court on the part of the applicant or protestants and that "in case the Board of County Commissioners decide that such license may be re-issued by the County Treasurer, he shall re-issue the same, and it shall be in force and effect until the decision of the Board of County Commissioners is reversed."

It is nowhere provided that where the Board has refused to order the license to be issued and an appeal taken to the District Court that a license shall issue pending said appeal, in fact the purpose of the appeal is to compel the re-issuance of the license, and were the Commissioners to order said license to be re-issued there would be nothing for the applicant to appeal from.

I am therefore of the opinion that the applicant may continue in business, unless for good cause shown as provided in Section 5, the Commissioners order said place closed, and that the Board of County Commissioners is without authority to issue license pending said appeal.

Respectfully,

S. C. FORD,
Attorney General.