

**Intoxicating Liquors — Near Beer — Malt Beverages—
Dealers and Manufacturers Of.**

Regardless of the alcoholic content, a malt beverage is prohibited.

Attorney General will not specify any particular beverage as not falling within the prohibition, and dealers and manufacturers thereof must be responsible.

April 23rd, 1919.

Mr. M. L. Parcels,
County Attorney,
Columbus, Mont.

Dear Sir:

I have your letter asking that I advise you regarding the present status of the "near beer" proposition.

I am inclosing herewith copy of opinion rendered the county attorney of Prairie county on Dec. 30th, last, which I believe covers the subject fully. In the case of State vs. Centennial Brewing Co., 179 Pac. 296 (See Pac. Adv. Sheets No. 1, April 14th, 1919), this opinion was sustained in every particular.

Just what is meant by the term "near beer" is not always plain. If a beverage made by the same process used in making beer, malt extract, etc., or a beverage made by a different process but in which malt is an ingredient, then it is a malt liquor and the sale thereof is prohibited even though it contains no alcohol whatever. If a beverage made by a different process from that used in making beer, malt extract, etc., and which contains no malt, then it is not a malt liquor, and the sale is not prohibited when it contains less than two per centum of alcohol measured by volume.

It is absolutely impossible to list any beverage as at all times falling within or without the prohibition, for the reason that one sample of a beverage may not be made by the same process as beer, malt extract, etc., while another sample of the same beverage may be, or one sample may not contain malt while another sample may, or one sample may not contain as much as two per centum of alcohol while another sample may contain in excess of that percentage.

In selling these different beverages it is up to the dealers to protect themselves at all times, and unless they are thoroughly satisfied that any beverage sold by them does not fall within the prohibition they should not take the chance and handle it.

I have not heretofore, and I do not intend in the future to designate or specify any particular beverage as not falling within the prohibition, but the manufacturers, importers and dealers must take their own chances, and if any such beverage shall be found at any time to fall within the prohibition criminal prosecutions will immediately follow.

Respectfully,

S. C. FORD,

Attorney General.