

Cigarettes—License—Corporations.

A corporation operating several different stores in different counties of the state must secure a state license for each separate place of business wherein cigarettes are sold.

Thomas Ferguson, Esq.,
County Treasurer,
Anaconda, Montana.

April 9, 1929.

My dear Mr. Ferguson:

You have requested my opinion whether the Piggly Wiggly corporation must secure a cigarette license for each place of business operated by that corporation wherein cigarettes are sold in the state, or if one license is all that is required.

Section 2435 R.C.M. 1921 provides in part as follows:

“Every person or persons, who is engaged in the business of selling cigarettes, cigarette paper, or the material used in the making of cigarettes, except tobacco, shall pay a license of twenty-five dollars per annum.”

It is noted that this section does not provide that a license must be secured for each separate place of business; however, this is a state license and governed by the general provisions of the statutes concerning licenses.

Section 2413 R.C.M. 1921 provides as follows:

“A license must be procured immediately before the commencement of any business or occupation liable to a license tax from the county treasurer of the county where the applicant desires to transact the same, which license authorizes the party obtaining the same in his town, city, or particular locality in the county to transact the business described in such license; separate licenses must be obtained for each branch establishment or separate house of business located in the same county. No license issued under this chapter authorizes any person to carry on any business within the limits of any incorporated city or town having power by its charter to impose or levy city or town license taxes, unless such person, in addition to the license provided by this chapter, also procures the license required by the ordinance or orders of such city or town.”

It is the provisions of this section, rather than Section 2435, *supra*, which must be complied with in issuing the license in question and, while the section is silent as to the conducting of different places of business in different counties, yet in applying the general rule of construction “that the intention of the legislature must be given effect, if possible”, (*Learch vs. Missoula Brick & Tile Co.*, 45 Mont. 314) and that the intention is to be sought in the language employed and the apparent purpose to be subserved (*Johnson vs. Butte & Superior Copper Co.*, 41 Mont. 158), we find that the legislature provided that the license must be procured from the County Treasurer of the county where the applicant desired to transact business, and that a separate license must be procured for each separate place of business in the county.

From these provisions it is very apparent that it was the intention of the legislature to require a license from each place of business wherein the business upon which the license so imposed was carried on. Furthermore, to hold that only one license is required from a corporation doing business in several different places and counties in the state would be to nullify the provision of this statute that the license must be secured from the County Treasurer of the county wherein the applicant intended to transact business as it would, of course, be impossible for the corporation to secure one license from all the different counties in which it operated.

It is therefore my opinion that the corporation is required to secure a license for each and every place of business wherein cigarettes are sold.

Very truly yours,

L. A. FOOT,
Attorney General.

By S. R. Foot, Assistant.