

ber of licensed beer vendors that may operate within its borders to a lesser number than fixed by law and duly licensed by the State Board of Equalization.

April 10, 1933.

We are in receipt of your inquiry regarding the power, or want of it, of the town of Wibaux, in the matter of licenses under the Beer Act, so-called. (Chapter 106, Laws of 1933).

Speaking in a negative way and as succinctly and directly as possible, it is our view that the town may not by ordinance or resolution interfere with or circumscribe the powers of the State Board of Equalization when lawfully exercised under the Act. In other words, were the Board in the proper performance of its duties to issue a license to each of two retailers and licenses to wholesalers and proprietors of hotels and restaurants, whose places of business are within the town, it (the town) could not do otherwise than bring its ordinance into conformity with what the Board has done or may do. The Board passes on the moral character and general qualifications of each applicant for a license. The town is confined to mere regulation of the business and the issuance of a license to a person who already possesses a state license. It cannot prevent him from continuing in business by merely refusing him a license in the first instance.

A different construction of the law, which after all is a revenue measure, would put it in the power of any city or town to nullify its provisions within its own geographical limits and thereby produce, perhaps, an unseemly conflict of authority between state and municipal authorities.

Opinion No. 145

**Cities and Towns—Ordinances—Beer—
Vendors — Licenses — State Board of
Equalization.**

HELD: A city or town may not by ordinance or resolution limit the num-