

November 27, 1933

You inquire as to whether or not persons selling beer by the glass are required to secure the license provided for by Section 2589, Revised Codes of Montana, 1921.

This statute makes it unlawful for any person to conduct a soft drink establishment without a license issued by the State Board of Health of the State of Montana. As the sale of beer of less than 3.2 per cent alcoholic content has been declared to be the sale of a non-intoxicating beverage it would appear that establishments selling same by the glass are engaged in maintaining a soft drink establishment and are subject to the provisions of this statute, and are also subject to the provisions of the statute concerning regulation by the State Board of Health.

Opinion No. 399

Beer Vendors—Soft Drink Establishment—Licenses—Board of Health

HELD: Beer vendors, selling beer by the glass, are engaged in maintaining a soft drink establishment and are subject to the provisions of R. C. M. 2589 requiring a license therefor, and are subject to regulation by the State Board of Health.