

Opinion No. 179.**Licenses—Execution and Attachment.**

HELD: A Liquor License is not property but a mere personal privilege and therefore not subject to attachment.

December 19, 1939.

Mr. Albert G. Harvey
County Attorney
Chester, Montana

My dear Mr. Harvey:

You have submitted the question as to whether or not a liquor license issued by the State Liquor Control Board is subject to attachment.

Property in the State of Montana not exempt from execution may be attached (Section 9261). The question then is whether or not such license constitutes property within the meaning of the statute, or is a mere personal privilege.

The licensee exercises only the privileges granted by the license. The licenses are applicable only to the premises in respect to which they are issued. Transfers must be approved by the Liquor Control Board. The holder must possess certain personal qualifications. The premises must meet certain requirements as to location and sanitation. Licenses may be revoked for cause. (Chapter 84, Laws of 1937.) Prior to the issuance of the license the applicant must receive the approval of the town, city, or county authorities. (Chapter 221, Laws of 1939.) The city or town may limit the number of liquor establishments within its corporate limits. (State ex rel. McIntire vs. City Council of the City of Libby, 107 Mont. 216). If the license were attached and sold upon execution to a disqualified person its transfer would be a nullity.

In view of the conditions attached to the granting and use of the license and in the absence of an express statutory provision, such license does not constitute property within the meaning of Section 9261, but is a mere personal privilege and is not subject to attachment.

Littleton v. Burgess, 82 Pac. 864 (Wyo.);

In re. Fuetl, 247 Fed. 829; Dist. Ct., D. Conn;
33 C. J. 533.