

Second Avenue North from the school for the deaf and blind, whose address is 3800 Second Avenue North, Great Falls, Montana.

You also submitted a plat showing the location of the school and the premises operating under the license. It would appear from the plat that the main entrance of the school is not on the same street as that of the licensed premises, but that the side lawn of the school is directly across the street. The distance in a straight line between the center of the main entrance of the school and the center of the nearest entrance of the licensed premises is less than six hundred feet.

Chapter 84, Laws of 1937, was adopted by vote of the people at the general election held November 8, 1938, and became effective by virtue of the Governor's proclamation on January 21, 1939.

Section 13 of the act provides:

"No license shall be granted for any premises which shall be on the same street or avenue and within six hundred feet of a building occupied exclusively as a church, synagogue or other place of worship, or school, except a commercially operated school; the measurements to be taken in a straight line from the center of the nearest entrance of such school, church, synagogue or other place of worship to the center of the nearest entrance of the premises to be licensed; except, however, that no license shall be denied because such restriction may apply to any premises so located which are maintained as a bona fide hotel, restaurant, railway car, club or fraternal organization or society except similar places of business established and in actual operation for one year prior to the passage and approval of this act."

The obvious purpose of the above quoted section is to protect students from the environment surrounding a tavern which serves liquor. The public policy involved is to protect the young and in construing such a statute, the principle set out in *In re Wilson's Estate*, 102 Mont. 178, 56 Pac. (2d), should be followed. The court said:

"In the construction of a statute the primary duty of the court is to

Opinion No. 110.

Liquor Control Act—License, Sale of Liquor—Schools and School Districts—Election Designating Location of Premises Selling Liquor—Location of Premises Selling Liquor.

Held: A liquor license may not be granted for use on premises which are directly across the street from a school although the main entrance of the school is not on the same street as the premises applying for the license, but the entrance of the school is within six hundred feet of the entrance of the premises seeking the license.

January 2, 1946.

Honorable Sam C. Ford
Governor of Montana
State Capitol
Helena, Montana

Dear Governor Ford:

You have requested an opinion from this office concerning the granting of a liquor license for premises located in the 3800 block on Second Avenue North, directly north of and across

give effect to the intention of the legislature in enacting it."

The main entrance of the school is not on the same street as the tavern, but the grounds of the school are across the street therefrom. Section 13 provides in part that "no license shall be granted for any premises on the same street or avenue . . . as a school." The act could have provided that the school and the proposed licensed premises must front on the same street for the tavern to be in the prohibited class. However, the act does not so provide, but does prohibit the licensing of premises on the same street when the entrances of the two buildings are within six hundred feet of each other.

It is therefore my opinion that under the facts presented, a liquor license may not be granted for use on premises which are directly across the street from a school although the main entrance of the school is not on the same street as the premises applying for the license, but the entrance of the school is within six hundred feet of the entrance of the premises seeking the license.

Sincerely yours,
R. V. BOTTOMLY,
Attorney General