

**Opinion No. 57**

**BOWLING ALLEYS; Closing Hours; law does not prescribe, when—  
Section 94-101, RCM, 1947—Section 94-4003, RCM, 1947—Section  
94-4004, RCM, 1947**

**Held: Section 94-4003, RCM, 1947, does not prescribe the closing hours  
for bowling alleys.**

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March 16, 1960

Mr. William J. Speare  
Yellowstone County Attorney  
Billings, Montana

Dear Mr. Speare:

You have requested my opinion whether all bowling alleys in Montana must remain closed between the hours of twelve midnight and seven a.m.

Section 94-4003, RCM, 1947, provides:

"All pool halls, billiard halls, bowling alleys, and other places of business where pool or billiards is played, shall be closed each night in the year at an hour not later than twelve o'clock midnight, and shall be kept closed until seven o'clock the following morning; provided, however, that the provisions of this act shall not extend the hours of keeping open such resorts and places of business which by regulation of law or ordinance are required to be closed at an earlier hour than twelve o'clock midnight."

Criminal statutes are to be construed according to the fair import of their terms, with a view to effect their object and to promote justice.

State v. Aldahl, 106 Mont. 390, 393, 78 Pac. (2d) 935, and Section 94-101, RCM, 1947. Moreover, our Supreme Court, in the case of State ex rel. Carter v. Kall, 53 Mont. 162, 166, 162 Pac. 385, stated the rule in this state as:

"In the construction of a statute the primary duty of the court is to give effect to the intention of the legislature in enacting it. The intention is to be sought in the language employed and the apparent purpose to be subserved."

Therefore, a proper construction of Section 94-4003 can be arrived at only after determining the legislative intent in enacting that statute. Section 94-4003 was enacted as Section 3, Chapter 29, Laws of 1917. The title to that act provides:

"An act to prohibit gambling on games played upon pool and billiard tables; to punish those who participate therein as well as those who conduct or carry on such games, and to provide for early closing of all pool halls, billiard halls, bowling alleys and other places where pool or billiards is played."

Section 4 of this act made it a misdemeanor for operators of pool or billiard halls to permit minors under the age of eighteen years to loiter within their establishments without the written consent of the minor's parents. This section was amended to absolutely prohibit minors from loitering within such establishments by Section 1, Chapter 115, Laws of 1921, Section 94-4004, RCM, 1947. The legislative intent was to eliminate gambling on pool or billiard games and to prevent minors from association with business establishments where such games were played.

The Attorney General's Opinion appearing in the Official Reports and Opinions of the Attorney General, Volume 11, at page 94 is consistent with that legislative intent, as the opinion held that any business establishment which operates pool tables in the same room as the other portion of the business is subject to the regulations imposed by Chapter 29, Laws of 1917. The use of the phrase "**bowling alleys and other places where pool or billiards is played**" was not intended to mean that all bowling alleys must cease operations and close at midnight. The intent was to prevent the playing of pool or billiards in bowling alleys or other places of business after midnight.

Therefore, it is my opinion that Section 94-4003, RCM, 1947, does not prescribe the closing hours for bowling alleys.

Very truly yours,  
FORREST H. ANDERSON  
Attorney General