

OPINIONS OF THE ATTORNEY GENERAL

VOLUME NO. 39

OPINION NO. 19

AIRPORTS - Liquor license fee;
ALCOHOLIC BEVERAGES - License fee for airports;
LICENSES - Liquor, fee payment by airports;
MONTANA CODE ANNOTATED - Sections 16-4-208, 1 -501.

OPINIONS OF THE ATTORNEY GENERAL

HELD: Airport authorities holding liquor licenses are not required to pay annual fees for such licenses.

5 June 1981

Ellen Feaver, Director
Department of Revenue
S.W. Mitchell Building
Helena, Montana 59601

Dear Ms. Feaver:

You have requested my opinion on the following question:

Are airport authorities holding liquor licenses required to pay annual fees for such licenses?

In 1979 the Montana Legislature enacted legislation empowering certain publicly-owned airports to acquire all-beverages licenses from the Department of Revenue, regardless of the number of such licenses already issued in the quota area in which the airports are located. § 16-4-208, MCA, (1979 Mont. Laws, ch. 461). According to section 16-4-208(3), MCA, the airport licenses "shall be subject to all statutes and rules governing all-beverages licenses."

The question has now arisen whether airports that have acquired licenses are required to pay renewal fees annually. Section 16-4-501(7), MCA, generally provides for the payment of annual license fees by holders of all-beverages licenses, the amount of the fee depending on the location of the license and the size of the population. Section 16-4-208(3), MCA, would therefore apparently impose the same requirement on airport licensees.

In this instance, however, the Legislature enacted a specific provision on licensing fees for public airports. Section 16-4-501(8), MCA, provides: "The fee for one all-beverage license to a public airport shall be \$800." According to recognized principles of statutory construction, a special statute covering a particular subject matter--in this case, licensing fees for airports--must be read as an exception to a statute covering the same subject in general--in this case,

OPINIONS OF THE ATTORNEY GENERAL

standard fees for other all-beverages licenses. In re Kesl's Estate, 117 Mont. 377, 385, 161 P.2d 641, 645 (1945); accord State ex rel. Marlenee v. District Court, Mont. , 592 P.2d 153, 156 (1979). Besides excepting public airports from the general payment schedule for all-beverages licenses, subsection (8) of section 16-4-501, MCA, also reveals a legislative intent to require airports to pay only initial, rather than yearly, license fees. In each of the other subsections of section 16-4-501, MCA, except those dealing with short-term permits, the Legislature explicitly mandated an "annual license fee." The omission of modifying language similar to that in the statute's other subsections clearly indicates a legislative decision to exclude public airports from the normal requirement of yearly license renewal payments and to require only the single \$800 payment for acquisition of the license. See In re Kesl's Estate, 117 Mont. at 386, 161 P.2d at 645.

THEREFORE, IT IS MY OPINION:

Airport authorities holding liquor licenses are not required to pay annual fees for such licenses.

Very truly yours,

MIKE GREELY
Attorney General