

**OPINION
44-64**

March 10, 1944 (OPINION)

LIQUOR DEALERS

RE: Liquor Dealers

I have your letter of March seventh, in which you inquire whether a liquor dealer, who holds an off and on sale license, can legally refuse to sell a customer liquor by the bottle.

The holder of a liquor license cannot be compelled to sell liquor to anyone. The courts have held time and time again that there is no inherent right in a citizen to sell intoxicating liquor. If there is no inherent right to sell, then we do not believe there is any inherent right to buy liquor. The sale of intoxicating liquors is a business which, under the decisions of the courts, is attended with danger to the community, and may be entirely prohibited, or may be permitted under certain specified conditions. The fact that a man holds a license for off and on sale does not mean that he has to sell to everyone who comes to him, either by the drink or by the bottle. It is my opinion that the operator of a beer or liquor establishment can refuse to sell to anyone whom he does not care to sell to. For example, if he made up his mind to sell to no one who had blue eyes, or unless the person was a member of a certain race or creed, it is my opinion that he could do so. Under our present laws, you cannot compel the operator of one of these establishments to sell to anyone by the drink or by the bottle, merely because he owns an off and on sale license.

The authority to regulate the retail sale of alcoholic beverages is vested in the local municipality. If they have an ordinance which would require him to sell by the bottle, if he holds an off sale license, then by accepting that license, he agrees to sell that way. Otherwise, there is nothing that would compel him to sell in any manner that he does not see fit to sell, so long as he complies with the law.

ALVIN C. STRUTZ
Attorney General