

OPINION
56-19

June 11, 1956 (OPINION)

CITIES

RE: Beer and Liquor Licenses

We have received your letter of June 5, 1956, with reference to beer and liquor licenses.

Your specific question is whether a city that is charging two thousand dollars for a liquor license may charge an additional fee for a beer license.

Chapter 5-03 of the North Dakota Revised Code of 1943 deals with the sale and taxation of liquor. Section 5-0303 of the 1953 Supplement provides that the license fees in cities and villages for a liquor license shall be not less than two hundred dollars, nor more than two thousand dollars. Chapter 5-05 of our Code deals with the manufacture, sale, and distribution of beer and section 5-0207 of the 1943 Revised Code empowers cities and villages to require retail license fees for sale of beer and to impose and collect such license fees.

It is to be noted that section 5-0101 of the 1943 Code defines liquor as any alcoholic, spirituous, vinous, fermented, malted or other liquor which contains more than four percent of alcohol by weight. Therefore, to sell beer containing alcohol in excess of four percent by weight requires a liquor license, and a dealer who sells only such beer can do so on his liquor license and would not be required to have a beer license. However, any dealer selling beer containing less than four percent of alcohol by weight would need a beer license. Four percent by weight amounts to about the same as five percent by volume.

It is our opinion that a city or village board may charge two thousand dollars for a retail liquor license and in addition thereto charge a fee for a retail license to sell beer, containing less than four percent of alcohol by weight.

LESLIE R. BURGUM

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