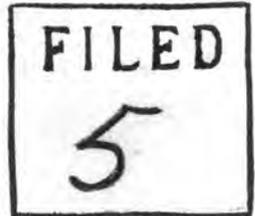


NON-INTOXICATING BEER: The Director of Revenue may not use a meter machine for the issuance of stamps for malt liquor and non-intoxicating beer.

March 13, 1951

Honorable G. H. Bates, Director  
Department of Revenue  
Capitol Building  
Jefferson City, Missouri

3/14/51



Dear Sir:

This office is in receipt of your recent request for an official opinion. You thus state your opinion request:

"Section 311560, R. S. Mo. 1949, makes it the duty of the Director of Revenue to provide beer stamps as authorized by the Department of Liquor Control.

"Recently we have been approached with a proposition to issue suitable stamps on a sticker tape through a prepaid meter, such as is now used by some of the departments for postage.

"It is represented that this would be a great accommodation to the breweries, a savings in time, help and expense, and would not jeopardize the collection of the required fee, but would be advantageous to our Department in that we would be paid in advance.

"Before agreeing to such an operation, I am asking if in your opinion the issuance of beer stamps through a prepaid meter would meet the requirements of the above section."

We have been orally informed by you, as supplementing the information contained in your above quoted letter, that your present method of issuing these stamps is that your department orders these stamps printed at a public printing office; that after being printed, these stamps are delivered to you; that the brewery desiring stamps sends your office a draft or money order to pay for a certain number of these stamps; that this order is cleared through the office of the Supervisor of Liquor

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Control of the State of Missouri; and that then your office mails to the brewery the number of stamps ordered and paid for.

We have been further informed by you that under the proposed plan, the brewery would install a meter machine at its plant; that each meter would contain a roll of blank sticker tape, and a plate which would print upon each section of the sticker tape, as it came through the meter machine, beer stamps, each one of which, as it came out of the meter machine, would be detached and put on a beer container. Prior to this operation, the brewery would have sent to the Director of Revenue a certain sum of money which would represent the price of a certain number of beer stamps. The meter would then be "set", presumably by an employee of the Director of Revenue, to issue the number of stamps previously paid for.

In your letter, you refer to Section 311.560, RSMo 1949, which section is as follows:

"1. It shall be the duty of the director of revenue to provide suitable and inimitable Missouri excise or inspection stamps and malt liquor and nonintoxicating beer stamps or labels and he shall safely keep the same, together with the plates used in making them, when not in actual use.

"2. The director of revenue shall upon request furnish requisition forms for all stamps and labels. All such requisitions shall be presented in triplicate to the director of revenue and shall be accompanied by a bank draft, money order, certified check or cashier's check, payable to the director of revenue of the state of Missouri, for a sum sufficient to pay for all such stamps or labels. Upon receipt of such requisition the director of revenue shall present the same to the supervisor of liquor control, who shall have the sole authority to approve or disapprove all such requisitions. Such requisition shall be promptly checked by the supervisor of liquor control and, if approved by him, he shall appropriately designate his approval thereon and promptly forward same to the director of revenue who shall promptly forward to the purchaser all stamps stipulated on the requisition for which proper remittance was made, together with one copy of the requisition and the purchaser shall promptly acknowledge to the director of revenue receipt for all such stamps on a receipt form furnished by the director of revenue and returned with such stamps."

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Our problem here is to determine whether the use of the meter machine, as described above, would be compatible with the directives of Section 311.560, RSMo 1949, quoted above.

It is the opinion of this department that it would not be for the following reasons.

It will be observed that Part 1 of Section 311.560, supra, states that it shall be the duty of the Director of Revenue to provide "suitable and inimitable Missouri excise or inspection stamps and malt liquor and nonintoxicating beer stamps or labels \* \* \*." Under the current system, this is precisely what the Director of Revenue is doing. Under the one proposed, the Director of Revenue would not be providing these stamps because they would be printed by the meter machine in the brewery as they were used. The meter machine and the sticker tape would be provided by and owned by the brewery. It is not clear in whom ownership of the plate which printed the stamps would be vested, but apparently it too would be in the brewery. Furthermore, Part 1 of the above quoted section also states that the Director of Revenue "shall safely keep the same (beer stamps or labels), together with the plates used in making them, when not in actual use." (Words in parentheses ours.) Under the proposed plan, there would, of course, be no supply of stamps for the Director of Revenue to keep and he could not keep the plates used in making the stamps when these plates were not in actual use because they would be in the meter machines in each brewery in the state of Missouri.

Part 2 of the above quoted section provides, in part, that after the Director of Revenue has received a draft from a brewery for beer stamps, and after the Supervisor of Liquor Control has approved the order, the Director of Revenue shall then forward the stamps to the brewery which has ordered them. Obviously, Part 2 of the section quoted could not be complied with under the proposed meter system of issuance.

From all of the above, it seems clear to us that use of proposed meter machine would not be compatible with Section 311.560, supra. Under the proposed plan there would be a much greater chance that the plates would be stolen and that unpaid-for stamps would be printed, and that the plates would be duplicated with the same result. Obviously, the opportunities for imitation would also be greatly enhanced. It seems clear to us that Section 311.560, supra, does not contemplate the issuance of these stamps by any such method as the one proposed and that issuance by this method would not be compatible with the letter and the clear, over-all intent of Section 311.560, RSMo 1949.

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CONCLUSION

The Director of Revenue may not use a meter machine for the issuance of stamps for malt liquor and non-intoxicating beer.

Respectfully submitted,

HUGH P. WILLIAMSON  
Assistant Attorney General

APPROVED:

  
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J. E. TAYLOR  
Attorney General

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