

LIQUOR: Liquor control act does not apply to Federal Military Reservations.

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Hon. Walker Pierce
Supervisor of Liquor Control
Jefferson City, Missouri

Att: W.H. Bouchard, Chief Auditor.

Dear Sir:

We have your recent letter which reads as follows:

"We have a letter from the Railway Express Agency relative to the acceptance of intoxicating liquor consigned to Officers Clubs at Federal Military Reservations in the State of Missouri, which reads as follows:

'New York N.Y.
November 25, 1939.

Mr. J.J. West
Superintendent
Louisville, Ky.

I have your letter of November 21st and enclosures regarding the acceptance of intoxicating liquor when consigned to Officers Clubs at Federal Military Reservations in the State of Missouri.

Attorneys General of many states have ruled that the State Liquor Laws do not apply to shipments consigned to Officers Clubs located on Federal Military Reservations; Attorneys General of other States have ruled to the contrary.

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It is my suggestion that we accept shipments consigned to consignees located on Federal Military Reservations in Missouri, and in the interim, it might be advisable to determine from the Liquor Control Board of the State of Missouri their ruling on the subject.

C.F. Messenkopf,
Traffic Manager.

"Another question has arisen relative to the same shipments in regard to the state tax on all shipments to Military Reservations. We would like to have your opinion as to the legality of the Express Company delivering merchandise to the Reservations, who are not holders of state permits, for the sale of intoxicating liquor.

"We would also like to have your opinion as to the tax on such shipments. It is our understanding that the United States Treasury Department has ruled that the Reservations are not a part of any state and are under absolute control of the Federal Government, therefore, they are not subject to any tax levied by the states."

You have asked two questions which may be stated in the following language:

(1) Whether the liquor laws apply to Federal Military Reservations, and

(2) Whether the state liquor tax can be collected on all shipments of intoxicating liquor consigned to such reservations.

This office has in the past written two opinions regarding the applicability of state laws to Federal Military Reservations. The first one of these opinions was addressed to the Athletic Commission of the State of Missouri and dated November 5, 1937. This opinion holds that the State Athletic Commission has no jurisdiction whatsoever over boxing events held at Jefferson Barracks and that the State of Missouri cannot collect a 5% tax from the gate receipts of such exhibitions.

The second opinion is dated April 26, 1938, and is addressed to the Honorable Ray J. Cunningham, Chief Attorney, Veterans Administration, Jefferson Barracks, Missouri. We held in this opinion that the State of Missouri does not have such jurisdiction over the United States properties designated as Jefferson Barracks as will authorize it to impose the provisions of the Missouri Sales Tax Act on any sale of tangible personal property made at or on said premises.

We are attaching hereto copies of both of the above mentioned opinions.

The reasoning in the attached opinions is based on an act of the Missouri Legislature in 1892 (Laws of Missouri, 1892, Extra Session, page 16), by which the State of Missouri ceded to the United States the properties known as Jefferson Barracks. In this act, the State of Missouri reserved to itself only the right to serve, civil or criminal, process within said reservation in suits or prosecutions for or on account of rights acquired, obligations incurred or crimes committed in said state outside of the reservation.

The reasoning is also based on the provisions of the 17th clause of Section 8, Article I of the Constitution of the United States, which gives to Congress the power to exercise exclusive legislation in such reservations.

The reasoning is further based on Section 11072, Laws of Missouri, 1935, page 291, and Section 11073, R.S.

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Missouri, 1929, by which the State of Missouri has consented to the acquisition by the United States, by purchase or grant, of any land in the state which has or might thereafter be acquired for the establishment or maintenance of governmental offices and has ceded jurisdiction to the United States over such properties. It appears, therefore, that under the Constitution of the United States and the laws of the State of Missouri that the state has no jurisdiction over legally established and operated Military Reservations, and that the Liquor Control Act does not apply to such territories any more than the Sales Tax Act or the laws governing athletic events; that none of the laws enacted by the state Legislature are applicable to such reservations. The lands included in military posts appear to come under the exclusive jurisdiction of the United States government.

CONCLUSION.

It is our conclusion, therefore, that none of the provisions of the Liquor Control Act of the State of Missouri apply to legally established and operated governmental Military Reservations and that no state tax can be collected on shipments of intoxicating liquor consigned to and for the purposes of being consumed on such reservations.

Respectfully submitted,

J.F. ALLEBACH
Assistant Attorney General

APPROVED By:

W.J. BURKE
(Acting) Attorney General

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