

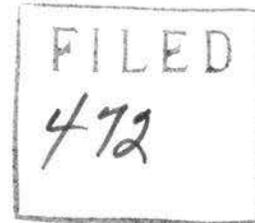
POOL TABLES:
LICENSES:

An operator of an amusement center is subject to the license fee provided in Chapter 318, RSMo 1959, with respect to a coin operated pool table used in the establishment, even though he is not the owner of the table.

November 4, 1969

OPINION NO. 472

Honorable Harold Dickson
Member of Missouri House of
Representatives-District 121
400 West Russell
California, Missouri 65018



Dear Mr. Dickson:

This official opinion is issued in response to your request for a ruling. The question raised is as follows:

"Is an operator of an amusement center subject to a tax on a pool table that is coin operated and is not owned by the owner of the establishment in which the table is used?"

Chapter 318, RSMo 1959, relates to the licensing of pool tables. Section 318.020 provides:

"The county court shall have power to license the keepers of billiard tables and all similar tables upon which balls or cues are used. At each term, the clerk of said court shall prepare and deliver to the collector of their county, as many blank licenses for the keepers of such tables herein mentioned as the respective courts shall direct which shall be signed by the clerk and attested by the seal of the court."

Section 318.020, in making provision for payment of a license fee, states:

"The collector shall deliver to any person who

Honorable Harold Dickson

shall have been licensed, a license to keep any such table mentioned in section 318.010 in their respective counties, for a term of twelve months, upon the payment by the applicant of the sum of twenty dollars for each billiard table, and ten dollars for each other table described in said section, and the collector shall countersign such license before delivering the same to the applicant; provided, that if the applicant be the keeper of more than one of such tables, the number may be named in one license, and in such case the clerk shall not be entitled to more than one fee as provided in section 318.050."

In a prior opinion issued by this office, i. e., Attorney General Opinion No. 324, July 25, 1967, Porter, a copy of which is enclosed herewith, it was determined that the license and license fee provisions of Sections 318.010 and 318.020, RSMo 1959, apply to coin operated pool tables and this conclusion is reaffirmed as the official opinion of this office.

The remaining question raised by your request is whether the operator of an amusement center in which a coin operated pool table is located, is a keeper of such table within the meaning of Chapter 318 even though he is not the owner of the device.

We have found no Missouri court decision which defines the meaning of the word "keepers" as used in Chapter 318. However, it is a basic rule of statutory construction that the intention of the legislature is to be ascertained from the words used ascribing to them their plain and rational meaning. *Gas Service Co. v. Morris*, 353 S.W.2d 645 (S.Ct.Mo.1962). As defined by Ballentine's Law Dictionary, Third Edition, a "keeper" is:

"One who has the care, custody, or supervision of anything; * * * one in possession of a thing, place, or business, whether or not the owner or proprietor. *Schultz v. State*, 32 Ohio St. 276, 281."

Black's Law Dictionary, Revised Fourth Edition, contains the following definition:

"A custodian, manager, or superintendent, one who has the care, custody, or management of any thing or place; one who has or holds possession of anything. *Schultz v. State*, 32 Ohio St.281; (other citations)."

Thus, it will be seen that according to the generally accepted definition of the term, a keeper need not be the owner of the thing kept. It is apparent that the operator of an amusement center has

Honorable Harold Dickson

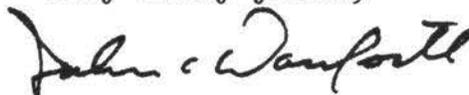
care, custody and superintendence over a pool table located and used on the premises and therefore he is its keeper.

CONCLUSION

Therefore, it is the opinion of this office that an operator of an amusement center is subject to the license fee provided in Chapter 318, RSMo 1959, with respect to a coin operated pool table used in the establishment, even though he is not the owner of the table.

The foregoing opinion, which I hereby approve, was prepared by my assistant, John E. Park.

Very truly yours,



JOHN C. DANFORTH
Attorney General

encls:

OP.325-67-Porter.