

FILE

Subject

*Licenses - C.M.B.
Consumption of 3.2*

Copy to



STATE OF KANSAS

Office of the Attorney General

State Capitol Bldg. (913) 296-2215 Topeka, Kansas 66612

May 16, 1974

VERN MILLER

Attorney General

Division No. 156

Honorable James L. Prickett
Judge of the Municipal Court
Arlington, Kansas 67514

Dear Judge Prickett:

You have requested an opinion concerning the consumption of beer containing less than 3.2% of alcohol by weight or the consumption of beer containing more than 3.2% of alcohol by weight by a driver or an occupant of a motor vehicle on a state highway in the state of Kansas.

The cereal malt beverage laws of the state of Kansas, K.S.A. 41-2701 et seq. do not prohibit the consumption of beer containing less than 3.2% of alcohol by weight upon the highways of the state of Kansas. Most cities, however, do have city ordinances which prohibit the same within the city limits.

Beer containing more than 3.2% of alcohol by weight is defined in K.S.A. 41-102 as being alcoholic liquor. Pursuant to the provisions of K.S.A. 41-719 it is unlawful for any person to drink or consume alcoholic liquor upon the public streets, alleys, roads or highways, or upon property owned by the state or any governmental subdivision thereof or inside vehicles while upon the public streets, alleys, roads, or highways. Therefore, it is illegal for a driver or occupant of a motor vehicle to consume beer containing more than 3.2% of alcohol by weight upon a state road or highway.

If this office can be of further assistance, please advise.

Sincerely yours,

VERN MILLER
Attorney General

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