



STATE OF KANSAS

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ATTORNEY GENERAL OPINION NO. 86- 57

Mr. Joseph A. Roth
Chase County Clerk
Chase County Courthouse
Cottonwood Falls, Kansas 66845

Re: Intoxicating Liquors and Beverages--Cereal Malt
Beverages--License Fees; Private Clubs

Intoxicating Liquors and Beverages--Licensing and
Regulation of Clubs--License Fees

Synopsis: Collection of the license fee authorized by K.S.A.
41-2702 for any cereal malt beverage licenses
issued to class B private clubs does not conflict
with the provisions of K.S.A. 41-2622. Cited
herein: K.S.A. 41-2622; 41-2702.

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Dear Mr. Roth:

You have requested our opinion as to whether Chase County may legally assess a separate fee for cereal malt beverage licenses that are issued to class B private clubs. You correctly point out that while K.S.A. 41-2702 does authorize the assessing of a license fee for any cereal malt beverage license that is issued, K.S.A. 41-2622 authorizes the collection of an annual occupation or license tax from private club licensees by a city or county, but prohibits the collecting of any other fees by the local governing authority.

K.S.A. 41-2622 states, in pertinent part:

"At the time application is made to the director for a club license under the terms of this act, an applicant for a class A club license shall pay an annual fee of two hundred fifty dollars (\$250) and an applicant for a class B club license shall pay an annual fee of one thousand dollars (\$1,000). In addition to such license fee, (1) any city in which a licensed class B club is located or if such licensed premises is not located in a city, the board of county commissioners of the county where the licensed premises is located, shall levy and collect an annual occupation or license tax on such club in an amount not less than one hundred dollars (\$100) nor more than two hundred fifty dollars (\$250) . . . but no other occupational or excise tax or license fee shall be levied by any city or county against or collected from such club license."

In reviewing and discussing this statutory provision, Attorney General Vern Miller stated:

"Clearly and expressly, no other tax or license fee may be exacted for the privilege of operating a private club."
(Attorney General Opinion No. 74-230, emphasis added.)

We concur in this view. Attorney General Miller has accurately restated the plain language of the statute, and the clear legislative intent as well.

The license fee that is authorized by K.S.A. 41-2702 is not a license fee "for the privilege of operating a private club." It is a license fee for the privilege of selling cereal malt beverages. That license fee would not be assessed against every class B private club in Chase County, but only against those clubs that apply for and are issued a cereal malt beverage license. Because the cereal malt beverage license fee authorized by K.S.A. 41-2702 is for a separate license that is not directly related to, and only coincidentally applies to, a class B private club, it is our conclusion that


Chase County may legally collect that fee from class B private club licensees.

In conclusion, it is our opinion that the collecting of the license fee authorized by K.S.A. 41-2702 for any cereal malt beverage licenses issued to class B private clubs does not conflict with the provisions of K.S.A. 41-2622.

Very truly yours,



ROBERT T. STEPHAN
Attorney General of Kansas



Richard Hodson
Assistant Attorney General

RTS:JLM:RH:jm