



OFFICE OF THE ATTORNEY GENERAL OF TEXAS
AUSTIN

GERALD C. MANN
ATTORNEY GENERAL

June 8, 1939

Hon. J. C. Voyles
Assistant County Attorney
Jefferson County
Beaumont, Texas

Dear Sir:

Opinion No. O-952
Re: Fees chargeable by the county clerk in connection with new and renewal applications for beer and/or beer and wine licenses.

Your request for an opinion on the question as is hereinafter stated has been received by this office.

The second and last paragraphs of your letter read as follows:

"The Texas Liquor Control Act gives the Administrator permission to make such rules and regulations as to him may seem proper. Under this provision of said Act Mr. Bert Ford, Administrator of the Texas Liquor Control Board, on April 19, 1939, issued a circular letter, stating that from that time on, no beer or liquor permit would be granted or renewed wherein the applicant, operating under an assumed name, had not complied with the assumed name law (Arts. 5924 - 5925 - 5927, R. C. S. 1925), and further, that said application would have to be accompanied by a certificate from the County Clerk to the effect that said applicant had complied with the terms

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of the assumed name law.

"Objection has been made by some applicants for licenses to the payment of the additional \$0.50 for a certificate from the County Clerk made necessary by reason of the ruling on the part of the Administrator ~~above~~ referred to. Our question to you is, "Should the County Clerk issue the certificate demanded by the Administrator of the Texas Liquor Control Board without charging a fee therefor, in compliance with the Liquor Control Act wherein said Act states that a fee of \$5.00 or \$2.00 and no more, as the case may be, shall be charged in addition to the license fees, or, should the Clerk charge a fee of \$.50 for said certificate, as provided for under the terms of Art. 3930, R. C. S. 1925?"

Section 16 of Article 1 of the Texas Liquor Control Act reads as follows:

"The Board is authorized to issue Wine and Beer Retailer's Permits. The holders of such permits shall be authorized to sell for consumption on or off the premises where sold, but not for resale, vinous and malt beverages containing alcohol in excess of one-half of one percent by volume and not more than fourteen (14) per cent of alcohol by volume. All such permits shall be applied for and issued, unless denied, and fees paid, upon the same procedure and in the same manner and upon the same facts and under the same circumstances, and for the same duration of time, and shall be renewable in the same manner, as required and provided to govern application for and issuance of Retail Beer Dealer's Licenses under Article II of this Act, and shall be subject to cancellation or suspension for any of the reasons that a Retail Beer

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Dealer's License may be cancelled or suspended, and upon the same procedure. The holders of Wine and Beer Retailer's Permits shall also be subject to all provisions of Section 22, Article II of this Act. All alcoholic beverages which the holders of such permits are authorized to sell may be sold with the same restrictions as provided in Article II governing the sale of beer, as to prohibited hours, local restrictions, age of employees, installation or maintenance of barriers or blinds in openings or doors, prohibition of the use of the word 'saloon' in the signs or advertising; and subject to the same restrictions upon consumption of wine as provided for beer in the case of Retail Beer Dealers in Section 15 of Article XI of this Act. For the violation of any applicable provisions of Article II the holders of such permits shall be liable for penalties provided in Article II; for the violation of any other provision of this Act the holders of such permits shall be subject to penalties provided in Article I of this Act.--(4)

"The annual fee for such a permit shall be Thirty (\$30) Dollars and shall be distributed in the manner provided for the distribution of fees derived under Article II of this Act; provided, however, that a Wine and Beer Retailer's Permit may be issued for a railway dining, buffet, or club car upon payment of a fee of Five (\$5) Dollars for each car; provided, however, that application therefor and the payment of fee shall be made direct to the Board; and provided further that any such permit for a railway dining, buffet, or club car shall be inoperative in any dry area as the same is defined in this Act.--(4)"

The seventh paragraph of Section 6 of Article

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II of the Texas Liquor Control Act reads as follows:

"Every person making application for an original license of any class herein provided, except Branch Licenses and Temporary Licenses, shall be subject at the time of the hearing thereon to a fee of Five Dollars (\$5), which fee shall, by the County Clerk, be deposited in the County Treasury and the applicant shall be liable for no other fees except said application fee and the annual license fee required of him by this Act."

Paragraph (b) of Section 7 of Article II of the Texas Liquor Control Act reads as follows:

"Any application for renewal shall be accompanied by a fee of Two Dollars (\$2), which shall be in addition to the amount required by law to be paid for annual license fees, as a renewal fee charge. Any renewal fee charges collected by the County Assessor and Collector of Taxes shall be deposited in the County Treasury as fees of office and be so accounted for by him. No applicant for renewal of license shall be required to pay any fees other than the renewal fee charge and license fees herein provided, except when required by action of the Board or Administrator to submit to hearing upon such renewal before the county judge."

Article 5924, Revised Civil Statutes, reads as follows:

"No person shall conduct or transact business in this State under any assumed name or under any designation, name, style, cooperate or otherwise other than the real name of each individual conducting or transacting such business, unless such person shall file in the office of the county clerk of the counties in which such person conducts, or transacts or intends to conduct or transact

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such business, a certificate setting forth the name under which such business is, or is to be, conducted or transacted, and the true full name or names of each person conducting or transacting the same, with the post-office address of each. Said certificate shall be executed and duly acknowledged by the person so conducting or intending to conduct said business in the manner provided for acknowledgment of conveyance of real estate."

Article 3930, Revised Civil Statutes, reads in part as follows:

"Clerks of the county courts shall receive the following fees:

"....
"Each certificate to any fact or facts contained in the records of his office, with certificate and seal, when not otherwise provided for50"

In view of the foregoing statutes, you are respectfully advised that it is the opinion of this department that the county clerk is authorized to charge a fee of 50¢ for each certificate from such clerk to the effect that the applicant has complied with the terms of the assumed name law.

Trusting that the foregoing answers your inquiry, we remain

Yours very truly

ATTORNEY GENERAL OF TEXAS

By *Ardell Williams*

Ardell Williams
Assistant

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APPROVED:

Garrett Mann
ATTORNEY GENERAL OF TEXAS

