



**THE ATTORNEY GENERAL  
OF TEXAS**

**GERALD C. MANN**

**ATTORNEY GENERAL**

**AUSTIN 11, TEXAS**

Honorable C.C. Broughton  
Assistant County Attorney  
Childress, Texas

Dear Sir:

Opinion No. O-5576

Re: Service men illegally possess 3.2  
beer without Texas Tax paid on it,  
when possessed off Post Exchange, in  
a dry area.

Your letter dated August 23, 1943, requesting an opinion of this department concerning the above matter reads in part, to-wit:

"All of Childress County is a dry area. The Childress Army Air School is located two miles west of Childress and 3.2 beer is sold at the Post Exchange to Service Men. The Service Men have been bringing such beer from the post into the city of Childress for their own consumption.

"It is the opinion of the Trial Judge Advocate at the post that such beer is not subject to State Tax, so long as the Service Men have it in their possession off of the post for their own consumption.

"After a study of the Texas Liquor Control Act, it is my opinion that such liquor is not subject to seizure while in the possession of the Army Officials on the post, but when it is taken off of the post by an individual, even though he is a service man, such beer is subject to the Texas State Tax, and such individual is violating the Texas Liquor Control Act in possessing the same without the Texas Tax having been paid."

We assume that the Post Exchange at the Childress Army Air School was established under proper military authority. It is the opinion of this department when 3.2 beer, without the Texas Tax paid on it, is possessed off of and without the jurisdiction of the area on which said U. S. Military Post has been established, that such possession is illegal regardless whether possessed by service men or citizens.

We are enclosing Opinion No. O-5400 addressed to Hon. R. O. Oswalt, County Attorney, Wilbarger County, Texas, in which we held that it was illegal for a citizen to import, transport and possess in a dry area unstamped beer for his own personal use.

Hon. C. C. Broughton, Page 2

Yours very truly

ATTORNEY GENERAL OF TEXAS

s/ Jesse Owens

By  
Jesse Owens  
Assistant

JO:FO:LW

APPROVED Sept. 11, 1943

s/ Gerald Mann

ATTORNEY GENERAL OF TEXAS

APPROVED OPINION COMMITTEE

BY GWB  
CHAIRMAN