



**THE ATTORNEY GENERAL
OF TEXAS**

AUSTIN, TEXAS

Grover Sellers
ATTORNEY GENERAL

Honorable Bert Ford, Administrator
Texas Liquor Control Board
P. O. Box 56
Austin, Texas

Dear Sir:

Opinion No. 0-5592
Re: Legality of "BEER-ALE"
label on malt beverage
containing less than
4% of alcohol by weight
under Texas Liquor Con-
trol Act.

It appears from your request that the Texas Liquor Control Board, under its governing Act, has refused to approve for use in Texas, a label, the material portions of which are as follows:

A R F & A R F

BEER-ALE

Important - Arf & Arf is a
scientific blend of Beer and
Ale brewed from the choicest
Materials "

We note that you had before you, information that the product bearing this label is a malt beverage containing more than one-half of 1% of alcohol by volume and 4% or less of alcohol by weight. You have asked our opinion concerning the legality of this label under the Texas Liquor Control Act.

Article II, Section 1 (b) of The Texas Liquor Control Act, provides as follows:

"The term 'beer' means a malt beverage containing one-half of 1% or more of alcohol by volume and not more than 4% of alcohol by weight, and shall not be inclusive of any beverage designated by label or otherwise by any other name than beer." (Emphasis ours)

Article II, Section 2, reads in part as follows:

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" . . . It shall be unlawful to manufacture, sell, barter, or exchange within this State any beverage containing alcohol in excess of one-half of one percent by volume and not more than four (4) per cent of alcohol by weight except beer."

According to the last quoted provision, it is clear that "beer" as defined in the Act is the only beverage falling within the alcohol bracket set forth therein which may be legally sold in Texas.

In our opinion the labeled product inquired about does not fall within the statutory definition of beer and cannot be legally sold in Texas under the given label because the definition of beer, (Section 1(b), supra), specifically excludes a "beverage designated by label or otherwise by any other name than beer."

We sincerely hope that our views may prove helpful to you in this connection.

Very truly yours

ATTORNEY GENERAL OF TEXAS

By /s/ Eugene Alvis
Assistant

EA:db:jrb

APPROVED NOV. 13, 1944
/s/ Carlos C. Ashley
FIRST ASSISTANT
ATTORNEY GENERAL

APPROVED OPINION COMMITTEE
BY BWB, Chairman