



**THE ATTORNEY GENERAL
OF TEXAS**

AUSTIN 11, TEXAS

**WILL WILSON
ATTORNEY GENERAL**

March 7, 1957

Honorable Coke R. Stevenson, Jr.
Administrator
Texas Liquor Control Board
1300 Guadalupe
Austin, Texas

Opinion WW-49

Re: Interpretation to be placed on Section 17 (3)(f), Article 666, Penal Code of Texas - whether a voluntary trade association may be formed by retail package store owners and dues collected from the members on a voluntary basis by wholesalers who, as an accommodation to the retailers, add a per case assessment as a separate item on each invoice, such sums to be remitted by the wholesalers to the trade association monthly.

Dear Mr. Stevenson:

This will acknowledge receipt of your letter of February 27th, 1957, with reference to the legality of the proposed plan as outlined above and in which you inquire whether such plan is legal, stating that the question has been raised as to whether or not the plan of collection would amount to an inducement on the part of the wholesaler and thus be a violation of subdivision (f) of Section 17 (3) of Article 666 - Penal Code of Texas.

In determining the legality of the proposed plan, it is necessary to consider all of Article 1 of the Texas Liquor Control Act, this article being covered by Article 666 of the Penal Code of Texas. Subdivision (f) of Section 17 (3) makes it unlawful for any wholesaler or any agent, servant or employee of the wholesaler:

Hon. Coke R. Stevenson, Jr., page 2 (WW-49)

"To offer any prize, premium, gift, or any similar inducement to any retailer or consumer, or the agent, servant or employee of either."

It is not clear from your opinion request that the proposed plan would be in violation of the above described subheading, but we do call your attention to Section 17 (3) (b) in which it is made illegal:

"to furnish, give, or lend any money, service or other thing of value, or to guarantee the fulfillment of any financial obligation of any retailer."
(Emphasis added.)

We also call your attention to Article 666-4, a part of which is as follows:

"Any act done by any person which is not granted in this Act is hereby declared to be unlawful."

and to subdivision (2) of Section 17 (Article 666-17 (2)) in which it is made unlawful for any person directly or indirectly to hold or have an interest in more than five package store permits, the business thereof, or have any interest in such package stores.

It is our opinion that the proposed method of collecting dues from the members of the voluntary trade association of package store retailers by wholesalers, as an accommodation to the retailers or their voluntary association is the furnishing and giving of service, which is a thing of value, by the wholesalers to the retailers and is in violation of Section 17 (3) (b) of Article 666 of the Penal Code.

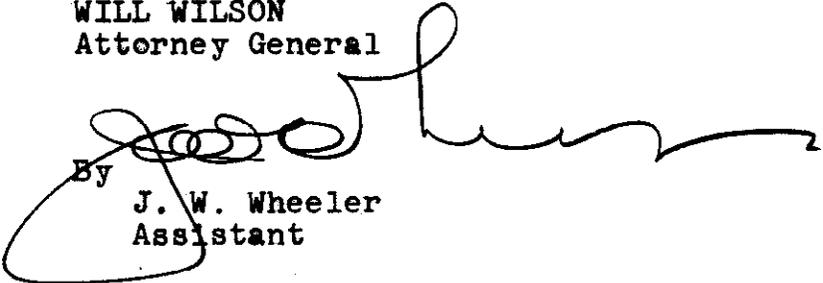
Hon. Coke R. Stevenson, Jr., page 3 (WW-49)

SUMMARY

It is a violation of the Texas Liquor Control Act, Article 1, and specifically of Section 17 (3) (b) for a wholesaler to furnish to a voluntary trade association of retailers the service of collecting dues from retailers.

Yours very truly,

WILL WILSON
Attorney General

By 

J. W. Wheeler
Assistant

JWW:ms

APPROVED:

OPINION COMMITTEE
H. Grady Chandler
Chairman