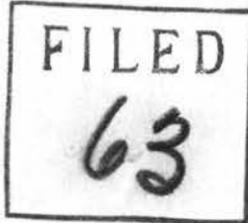


INTOXICATING LIQUOR:

Section 311.290, RSMo 1949, does not prohibit the sale of intoxicating liquors on election days concerning the Production and Marketing Administration.



December 10, 1951

12-14-51

Honorable Garner L. Moody
Prosecuting Attorney of
Wright County
Hartville, Missouri

Dear Sir:

Reference is made to your recent request for an official opinion of this department which request reads as follows:

"I am writing for an opinion as to the sale of intoxicants on election days concerning the P. M. A. (Production and Marketing Administration)."

Section 311.290, RSMo 1949, restricts the sale of intoxicating liquor on an election day as follows:

"No person having a license under the provisions of this law shall sell, give away or otherwise dispose of or suffer the same to be done upon or about his premises, any intoxicating liquor in any quantity between the hours of 1:30 A.M., and 6:00 A.M. on week days and between the hours of twelve o'clock midnight Saturday and twelve o'clock midnight Sunday, or upon the day of any general, special or primary election in this state, or upon any county, township, city, town or municipal election day, and if said person

has a license to sell intoxicating liquor by the drink his premises shall be and remain a closed place as defined in this section upon the day of any general, special or primary election in this state or upon any county, township, city, town or municipal election day and between the hours of 1:30 A.M. and 6:00 A.M. on week days and twelve o'clock midnight Saturday and twelve o'clock midnight on Sunday; provided, that the sale of intoxicating liquor may be resumed and the premises reopened on any such election day after the expiration of thirty minutes next following the hour or time fixed by law for the closing of the polls at any such election; and provided further, that where such licenses authorizing the sale of intoxicating liquor by the drink are held by clubs or hotels this section shall apply only to the room or rooms in which intoxicating liquor is dispensed; and, provided further, that where such licenses are held by restaurants whose business is conducted in one room only and substantial quantities of food and merchandise, other than intoxicating liquors are dispensed, then the licensee shall keep securely locked during the hours and on the days herein specified all refrigerators, cabinets, cases, boxes and taps from which intoxicating liquor is dispensed. A 'closed place' is defined to mean a place where all doors are locked and where no patrons are in the place or about the premises. Any person violating any provision of this section shall be deemed guilty of a misdemeanor."

This section by its express terms applies to state, general, special or primary election or any county, township, city, town or municipal election. The elections which you have referred to are for the purpose of electing a Production and Marketing Administration community and county committee. The regulations governing such elections are found in 3 F.R. 1885, as amended.

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Section 713.5 provides who shall be eligible to vote at such elections as follows:

"Any farmer who has an interest in a farm as owner, tenant or sharecropper shall be eligible to vote for committeemen and delegates in the community in which he has such an interest if:

"(a) A payment or grant of conservation materials or services is or will be made with respect to the farm under the current Agricultural Conservation Program, or such payment or grant has been made under the program during any one of the preceding three years and there is being carried out on the farm one or more of the current program practices approved for the State by the State Production and Marketing Administration committee, hereinafter referred to as the 'State committee';

"(b) Such a farmer is eligible for a cooperator's loan or other price support;

"(c) Such a farmer is eligible for a payment under the Sugar Act program; or

"(d) Such farmer has a crop insurance contract with the Federal Crop Insurance Corporation."

Section 713.3 provides that the purpose of such committees shall be as follows:

"The purpose of the county and community committee shall be to administer, on behalf of the Secretary of Agriculture of the United States, hereinafter referred to as the 'Secretary of Agriculture,' and in accordance with applicable laws, regulations, and official instructions, the provisions of section 7 to 17 inclusive of the Soil Conservation and Domestic Allotment Act, the Agricultural Adjustment Act of 1938, the Federal Crop Insurance Act, the Sugar Act of 1948, and any

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amendments to such acts, and such other acts of Congress as the Secretary of Agriculture or the Congress may designate. The county and community committees shall not engage in any other activity."

It is quite obvious that such an election is not a state, general, special or primary election nor is it a county, township, city, town or municipal election. Such an election only involves production marketing association and is not a state, county township or municipal function.

CONCLUSION

Therefore, it is the opinion of this department that Section 311.290, RSMo 1949, does not prohibit the sale of intoxicating liquors on election days concerning the Production and Marketing Administration.

Respectfully submitted,

D. D. GUFFEY
Assistant Attorney General

APPROVED:

J. E. TAYLOR
Attorney General

DDG:hr