

OFFICE OF THE ATTORNEY GENERAL



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MAY 24 1979

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Honorable John A. Teague
State Senator
P. O. Box 427
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Talladega County - Alcoholic
Beverages - A.B.C. Board.
Act No. 1599, Regular Session
1971 permits the probate judge
of Talladega County to sell
beer tax stamps to retailers.

Dear Mr. Teague:

This office is in receipt of your letter of April 2, 1979, in which you request an opinion of this office on the following:

"1. In Act 1599 of Regular Session of 1968 (which regulates the sale of alcoholic beverages in Talladega County) is there any language which prohibits the county from selling beer stamps to retailers.

2. If there is no language addressing retailers, could a retailer who complies with all state laws purchase beer stamps from the county.

3. If a retailer can not purchase beer stamps under this law, would the law then be unconstitutional because it would restrict who a retailer could buy beer from because of franchise regulations."

Honorable John A. Teague
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In my opinion, Act 1599 of the Regular Session of 1971 Alabama Legislature does permit a retailer in alcoholic beverages to purchase local beer tax stamps from the probate judge of Talladega County.

The Act provides that the probate judge shall issue these stamps to a "distributor or seller." In the definitional section of Act 1599, "distributor or seller" is defined as follows:

"(b) The term 'distributor' and the term 'seller' each shall mean and include any person...who is engaged in the business of selling, distributing or delivering malt or brewed beverages...."

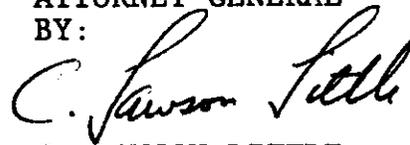
The definitional meaning of seller would include one who is a retailer. It is apparent that if it was the intention of the legislature to prohibit retailers from purchasing stamps, it would have only used the term "distributor", which usually means one who is a wholesaler. Instead, the Act uses the separate terms of "distributor or seller."

Since this request has been answered in the affirmative, Question 3 need not be answered.

Very truly yours,

CHARLES A. GRADDICK
ATTORNEY GENERAL

BY:



C. LAWSON LITTLE
ASSISTANT ATTORNEY GENERAL

CLL/dn