



**WILLIAM J. SCOTT**  
**ATTORNEY GENERAL**  
**STATE OF ILLINOIS**  
**SPRINGFIELD**

November 2, 1979

FILE NO. S-1469

**LIQUORS:**

Licensing Requirements For Sale  
of Alcoholic Liquor in State  
Parks and For Park Districts

Albert D. McCoy  
Chairman  
Illinois Liquor Control Commission  
160 North LaSalle Street  
Chicago, Illinois 60601

Dear Mr. McCoy:

This responds to your letter wherein you asked for an interpretation of certain provisions of "AN ACT relating to alcoholic liquors" (Ill. Rev. Stat. 1977, ch. 43, par. 94 et seq.). You ask the following questions:

1. Must a private person who leases concession space from the Illinois Department of Conservation in a State park, obtain a local liquor license and a State liquor license before he may sell alcoholic beverages at retail?

2. If no local license is required to operate a retail establishment in a State park, may the State issue a license when no local license has been issued?

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3. If the State is authorized to issue a retail license when no local license has been issued, could the Commission issue a retail license in a dry area in light of section 13 of article III and section 11 of article IX (Ill. Rev. Stat. 1977, ch. 43, pars. 109, 176)?

These questions all relate to section 11 of article VI of the Liquor Control Act (Ill. Rev. Stat. 1977, ch. 43, par. 130), which provides that no alcoholic liquors shall be sold or delivered in any building belonging to or under the control of the State or any political subdivision thereof, and further provides in pertinent part as follows:

" \* \* \*

\* \* \* Beer may be sold in buildings in parks under the control of the State Department of Conservation when written consent to the issuance of a license to sell beer in such buildings is filed with the commission by the State Department of Conservation. \* \* \*

Alcoholic liquors may be sold at retail in buildings in State parks under the control of the Department of Conservation, provided:

\* \* \*

b. consent to the issuance of a license to sell alcoholic liquors in the buildings has been filed with the commission by the Department of Conservation, and

\* \* \*

"

The aforesaid provisions for the sale of beer and alcoholic liquor in State parks under the control of the Department of Conservation are exceptions to the general pro-

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visions prohibiting the sale of alcoholic liquors in any building belonging to or under the control of the State. These exceptions were added by amendments by Senate Bill 266, filed July 25, 1939 (Laws of 1939, p. 93) and House Bill 1157, approved August 7, 1963 (Laws of 1963, p. 2529). These amendments provide that alcoholic liquors may be sold when consent to the issuance of a license has been filed with the Commission. However, they are silent as to whether a local and a State license must be obtained.

It is my opinion that local and State licenses must be obtained. There is nothing in the Liquor Control Act which specifically exempts a concessionaire in a State park from obtaining a license. Section 1 of article II (Ill. Rev. Stat. 1977, ch. 43, par. 96) provides that no one may sell alcoholic liquor except as provided in the Act. The only authorization for the contemplated sale is pursuant to a local and a State retail license.

Furthermore, the State Liquor Control Commission is authorized to issue a retail license only when a local commission has issued one. Section 13 of article III (Ill. Rev. Stat. 1977, ch. 43, par. 109) provides in part as follows:

"Nothing contained in this Act shall, however, be construed to permit the State Commission to issue any license, other than manufacturer's,

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foreign importer's, importing distributor's and distributor's and non-beverage user's license for any premises in any prohibited territory, or to issue any license other than manufacturer's, foreign importer's, importing distributor's, distributor's, railroad's, airplane's or boat's license, or non-beverage user's license, unless the person applying for such license shall have obtained a local license for the same premises.  
\* \* \* "

Thus, I am of the opinion that a person who leases concession space in a State park must obtain both a local and State license before selling alcoholic liquors (including beer) at a State park. The language permitting sale of beer and alcoholic liquor at State parks merely provides an exception to the blanket prohibition against the sale or delivery of alcoholic beverages in buildings belonging to or under the control of the State.

This answer to your first question makes it unnecessary to answer your second and third questions. However, for other reasons it is necessary to consider your third question further.

Your third question is whether, if the State Commission can issue a retail liquor license when no local license has been issued, the State Commission could issue a State retail license in a dry area. Section 13 of article III of the Illinois Liquor Control Act (Ill. Rev. Stat. 1977, ch. 43, par. 109) and section 11 of article IX of the Act

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(Ill. Rev. Stat. 1977, ch. 43, par. 176) prohibit the issuance of a retail liquor license in territory where the sale of alcoholic liquor is prohibited (dry area). Since the State Liquor Control Commission has no authority to issue a retail license in prohibited territory (section 13 of article III, quoted above), I am of the opinion that it may not issue a retail license to a concessionaire in a State park located in a dry territory. I therefore specifically overrule any advice I previously gave in opinion No. NP-196, issued July 21, 1970, to the contrary.

Next, you asked whether section 11 of article VI of the Illinois Liquor Control Act (Ill. Rev. Stat. 1977, ch. 43, par. 130) provides an exemption from licensing or merely constitutes an eligibility standard. There are so many different entities set forth in this section that it would be difficult in this opinion to discuss in detail licensing requirements for each one. I can state, however, that generally speaking, this section merely constitutes an exemption from the general prohibition against the sale or delivery of alcoholic beverages in any building belonging to or under the control of the State or any political subdivision thereof. For example, you called to my attention the decision of Joliet Park District v. Illinois Liquor Control Commission and Will County Liquor Control Commission (1974),

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Docket No. W 74G 1867CH, 12th Cir., Will County. In this case the court held that a park district is required to have both a local liquor license as well as a State license. I am in agreement with this decision. If you have a question with regard to a specific exemption, I will consider it further.

Finally, you ask whether the Illinois Department of Conservation could itself obtain a liquor license. Since the Department has neither sought a license nor raised the question, I believe that consideration of the question now is premature.

Very truly yours,

A T T O R N E Y   G E N E R A L