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STATE CAPITOL
PHOENIX, ARIZONA

September 10, 1968

DEPARTMENT OF LAW LETTER OPINION NO. 68-23-L (R-96)

REQUESTED BY: Wilbur R. Johnson, Executive Director
ARIZONA CIVIL RIGHTS COMMISSION

QUESTION: "When a holder of a liquor license re-
fuses to serve a person on the basis of
that person's racial background and the
Arizona Civil Rights Commission so in-
forms the Department of Liquor Licenses
and Control, does the Department of
Liquor Licenses and Control have the
right to deny renewal of the license
for that reason?"

CONCLUSION: See body of opinion.

A.R.S. § 41-1442, subsections A and B read as follows:

"Discrimination in places of public
accommodation against any person be-
cause of race, color, creed, national
origin or ancestry is contrary to the
policy of this state and shall be
deemed unlawful.

No person shall, directly or indirectly,
refuse to, withhold from, or deny to
any person, nor aid in or incite such
refusal to deny or withhold accommoda-
tions, advantages, facilities, or privi-
leges thereof because of race, color,
creed, national origin, or ancestry,
nor shall distinction be made with res-
pect to any person based on race, color,
creed, national origin, or ancestry in
connection with the price or quality of

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any item, goods or services offered
by or at any place of public accommo-
dation."

A.R.S. § 41-1485 provides that a violation of the above
quoted provisions is a crime and denominated as a misde-
meanor.

Although the grounds of revocation and suspension,
and the powers of the Department of Liquor Licenses and
Control, contained in Title 4 of the Arizona Revised
Statutes, are very limited, still the grounds of considera-
tion by the board in the case of original issuances and re-
newal are very broad. A.R.S. § 4-203, subsection A, states
as follows:

"The board shall issue a spirituous
liquor license only after satisfactory
showing of the capability, qualifica-
tions and reliability of the applicant,
and, with the exception of club
licensees, that the public convenience
required and that the best interest of
the community will be substantially
served by the issuance."

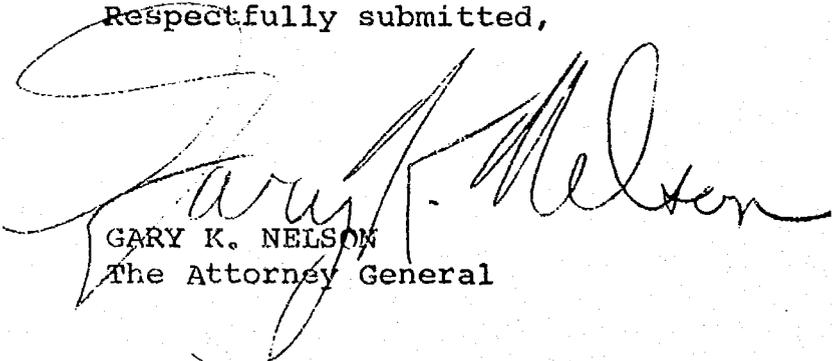
The authority is abundant to the effect that the same grounds
applied in the case of original issuances are properly applied
in judging an application for renewal. See: State v. Bush,
151 Tex. 606, 253 S.W.2d 269; Minkoff v. Payne, 93 U.S.App.
D.C. 123, 210 F.2d 689; Le Club, Inc. v. State Liquor Authori-
ty, 244 N.Y.S.2d 894, 20 A.D.2d 110; Alaska Alcoholic Bever-
age Control Bd. v. Malcom (Alaska) 391 P.2d 441; City of
Manitou Springs v. Walk, 149 Colo. 43, 367 P.2d 744; Daley
v. License Appeal Commission, 11 Ill.App.2d 421, 138 N.E.2d
73; Alcoholic Beverage Control Bd. v. Pebbleford Distillers,
302 Ky. 96, 193 S.W.2d 1019; Paul v. Brass Rail Liquors, 13
N.J.Super. 211, 106 A.2d 307; Nordco, Inc. v. State, 43 N.J.

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Super. 277, 128 A.2d 491; 279 Club, Inc. v. Municipal Bd. of Alcoholic Beverage Control of Newark, 73 N.J. Super. 15, 179 A.2d 155; Blanck v. Mayor and Borough Council of Magnolia, 38 N.J. 484, 185 A.2d 862.

Thus, it is our opinion that a conviction under A.R.S. § 41-1442, would be proper subject matter to be brought before the board when considering renewal applications. We are, of course, unable to provide a definite prediction as to what course of action may be adopted by the board. In any given case the board has the right, in its discretion, to consider all existing circumstances, the gravity of the offense in the particular case, any extenuating circumstances, and all like matters in arriving at their decision. Our opinion simply states that violations of law of the class mentioned are a proper subject matter to be brought to the attention of the Liquor Board. If the Liquor Board after considering this factor decided to deny a liquor license, then such action by the board would be within its statutory prerogative.

Respectfully submitted,



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The Attorney General

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