

March 7, 1950

LAW LIBRARY
ARIZONA ATTORNEY GENERAL

W. J. ...
Charles E. McDaniel
City Attorney
City of Prescott
Prescott, Arizona

Dear Mr. McDaniel:

We have your letter of March 2nd, requesting an opinion from this office as to whether or not the Superintendent of Liquor Licenses and Control has the final say in the transfer of a liquor license from location to location, and whether or not the city council of Prescott should make a recommendation in this matter. In answering your question, we invite your attention to Section 72-105, ACA 1939, paragraph 2 of subsection (b), which reads as follows:

"* * * It shall then enter an order approving or disapproving the issuance of the license, and shall file a certified copy thereof with the superintendent. If disapproved, a statement of the reasons therefor shall be attached to the order."

We also invite your attention to Section 72-108, subsection (c), which section, so far as is pertinent to the question, reads as follows:

"* * * No transfer shall be made while any charge for violation of this act or a rule or regulation of the superintendent is pending, and no transfer as to location shall be made unless it is shown to the satisfaction of the superintendent that the public convenience requires and will be substantially served thereby." (Emphasis supplied)

In the case of Lane v. Ferguson, p. 239 156 P. 2d, 236, the Supreme Court stated:

"This section recognizes that in the overall administration and control of the traffic in intoxicating liquors, and residents of each community have an interest in the premises, and that their legally elected representatives likewise have an interest that must be consulted. Only their advice and recommendations are sought." (Emphasis supplied)

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Prescott City Attorney

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As to your second question, we invite your attention to Duncan v. Superior Court, Pinal 65 Ariz. 193, 177 P. 2d 374. This case sustains your advice to the city council as to transfer from location to location, in that if the Superintendent denies a transfer there is no appeal and his decision is final.

For your information, the city council and board of supervisors of the different counties and cities have passed the matter of the application for the issuance of a license or the transfer of a license to the Superintendent without recommendation.

Trusting that the above will be of some assistance to you,
I am

Very truly yours,

FRED O. WILSON
Attorney General

MAURICE BARTH
Assistant Attorney General

MB:rc