

March 27, 1950

Honorable Dan E. Garvey
Governor of Arizona
State Capitol
Phoenix, Arizona

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ARIZONA ATTORNEY GENERAL

Dear Governor Garvey:

Under date of March 21, 1950 you addressed a request for an opinion from this office as to the constitutionality of House Bill No. 73, relating to liquor licenses and control as passed by the First Special Session of the Nineteenth Legislature.

The bill in question is an amendment to more than half of the sections of the statutes applying to liquor licenses and control and reorganizes the State law for that department in relation to most of its vital provisions.

Under the amended law the duties of the superintendent are increased in some respects (licensing and supervision of clubs) and decreased in other respects (no longer responsible for enforcing of gambling laws in relation to liquor establishments).

The fee provisions relating to the issuance of State liquor licenses by the State department have been completely reorganized by adding thereto the collection of fees for both club and commercial licenses for original issue by the department in substantial amounts ranging from \$50.00 per license to \$100.00 per license. And further, there is added a fee for original license which was never provided for in relation to any class of license before in the law and for which fees range from \$50.00 to \$100.00 for the issuance of each original license.

There is added a new provision for disposal of the additional fees for original license of clubs as well as for annual fees, which provides the means for raising funds for an appropriation and an application of such funds as are received therefrom to the Arizona Childrens' Colony for buildings, equipment and capital investment.

The Constitution of the State of Arizona, with relation to subjects of a special call of the Legislature, provides as follows:

"* * * The governor may call a special session whenever in his judgment it is

advisable. In calling such special session, the governor shall specify the subjects to be considered at such session, and at such session no laws shall be enacted except such as relate to the subjects mentioned in such call."

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Arizona Constitution, Article 4, Pt. 2,
Section 3.

Among the subjects specified by the Governor in accordance with the foregoing provisions of the Constitution are:

- "3. Appropriations.
* * *
- 7. State Reorganization."

The Supreme Court of the State of Arizona, in the case of Board of Regents v. Sullivan, 45 Ariz. 245, 42 P. 2d 619, said:

"The call need not state details, as such matters are within the discretion of the legislature. Where a general object is described, the legislature is free to determine in what manner such object shall be carried out."

The foregoing expression from the Sullivan case appears to be the general rule and is liberally interpreted by the Supreme Court of Arizona, in that case, as well as the case of State v. Versluis, 58 Ariz. 367.

In both the Sullivan case and the Versluis case the Supreme Court quoted from the text of Lewis' Sutherland Statute Construction (2d Ed.) 111, Section 65, as follows:

"The legislature may act freely within the call; may legislate upon all or any of the subjects specified, or upon any part of a subject; and every presumption will be made in favor of the regularity."

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Likewise both of the cases referred to above quoted from the general rule as stated in 59 Corpus Juris, 526, Section 20, as follows:

"The Governor's call or message need not state the details of the legislation to be considered, as such matters are within the discretion of the legislature and beyond the control of the governor, except for his power to veto. Where a general subject is described, the legislature is free to determine in what manner such subjects shall be carried into effect."

In the Sullivan case, the Court, in commenting on a foregoing quotation, stated (Page 352):

"The rule concerning the power of the legislature under a special call is very liberal * * *"

It will be seen that the portions of the call quoted above are in effect blanket directives to provide for "appropriations" and "state reorganization". There are no limits therein nor directions as to what these provisions shall be.

In view of the foregoing, we believe it reasonably appears that the Legislature intended to effect a reorganization of State government as relates to the State Liquor Department, and to appropriate the additional revenues derived therefrom, and, therefore, House Bill No. 73 is within the call and meets the requirements of the Constitution as those requirements have been interpreted by the Arizona State Supreme Court.

Respectfully submitted,

FRED O. WILSON
Attorney General

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