



**THE ATTORNEY GENERAL
OF TEXAS**

AUSTIN, TEXAS 78711

**CRAWFORD C. MARTIN
ATTORNEY GENERAL**

August 4, 1971

Honorable Richard Handorf
County Attorney
Anderson County Courthouse
Palestine, Texas 75801

Opinion No. M-917

Re: Authority of a county to levy a fee equal to one-half of the State fee on Beverage Cartage Permits and Local Distributor's Permits pursuant to Senate Bill 346, Acts 62nd Leg., R.S., 1971, ch. 65, p. 681.

Dear Mr. Handorf:

Your request for an Attorney General's Opinion presents the following question rephrased:

Do county taxing authorities have the authority to levy a fee on a Beverage Cartage Permit and Local Distributor's Permit pursuant to Senate Bill 346, Acts 62nd Leg., R.S., 1971, ch. 65, p. 681?

Section 15 of Senate Bill 346 amends the Texas Liquor Control Act (Art. 666-1 through 666-57, V. P. C.) by adding a new Section 20e which provides for two (2) new types of permits: a Beverage Cartage Permit and a Local Distributor's Permit. As provided therein, the ". . . fee for a Local Distributor's Permit shall be in the amount of Fifty Dollars (\$50)". . . and the ". . . annual State fee for a Beverage Cartage Permit shall be Ten Dollars (\$10)."

Section 10 of Senate Bill 346 amends Article 666-15a1, Vernon's Penal Code, ¹ providing in part as follows:

"Except as to Agent's, Industrial, Carrier's, Private Carrier's, Local Cartage, and Storage Permits, and as to such Wine and Beer Retailer's Permits as shall be

¹ The new Section is designated as 15(a).

issued to operators of dining, buffet, or club cars, and Class B Winery Permits, and except as to Mixed Beverage Permits during the first, second, and third years of their existence, the Commissioners Court of each county in this State shall have the power to levy and collect from every person that may be issued a permit hereunder in said county a fee equal to one-half (1/2) of the State fee; and the city or town wherein the licensed premises are located shall have the power to levy and collect a fee not to exceed one-half (1/2) of the State fee, but no other fee or tax shall be levied by either . . ."

The Beverage Cartage Permit is to be issued to holders of a Mixed Beverage Permit and a Private Club Registration Permit, authorizing such permittees to transport alcoholic beverages to the permitted premises from the place of purchase and should not be confused with a Local Cartage Permit issued to warehouse or transfer companies, which latter permit is exempt from an additional fee as provided above. The Beverage Cartage Permit is, therefore, expressly auxiliary to a Mixed Beverage Permit or Private Club Registration Permit.

A Local Distributor's Permit is issued to holders of Package Store Permits under the Texas Liquor Control Act and authorizes the holder thereof to purchase distilled spirits or liquor from holders of Wholesaler's Permits and to sell and distribute to Mixed Beverage Permit or Private Club Registration Permit holders such brands of distilled spirits, liquor, and other alcoholic beverages as are for general distribution and are available from the wholesaler to all local distributors. The Local Distributor Permit is, therefore, expressly auxiliary to a Package Store Permit.

Article 666-15(a), as amended, clearly authorizes cities and counties to impose an additional fee upon holders of various permits under the Texas Liquor Control Act. The holders of Mixed Beverage Permits are exempt until the fourth year of the permit's existence, when the State fee falls to \$500.00 annually, but the Legislature has in no way exempted any of the other newly created permits added to the Texas Liquor Control Act by the 62nd Legislature in Senate Bill 346.


In conclusion, since neither the Beverage Cartage Permit or the Local Distributor's Permit is exempt by the provisions of Article 666-15(a), it is the

opinion of this office that the Commissioners' Court of any county in this State wherein such permits may be issued has the power and authority to levy and collect a fee equal to one-half (1/2) of the fee collected by the State, but no other fee or tax may be levied as a "permit" fee.

SUMMARY

County taxing authorities may levy and collect a fee on holders of Beverage Cartage Permits and Local Distributor's Permits equal to one-half (1/2) of the State permit fee under the provisions of Senate Bill 346, 62nd Leg., R.S., 1971, ch. 65, p. 681.

Yours very truly,


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APPROVED:
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