

Opinion No. 53-5649

January 29, 1953

BY: RICHARD H. ROBINSON, Attorney General

TO: Elfego G. Baca, Chief Division of Liquor Control Bureau of Revenue Santa Fe, New Mexico

{*36} Reference is made to your letter of January 23, 1953, in which you requested an opinion from this office as to whether or not a liquor establishment or license within three miles of an incorporated municipality can be transferred into the municipality.

In your letter you stated that your authority to transfer would be based upon interpretation of Section 61-526 and 61-527, New Mexico Statutes Annotated, 1941 Compilation, as amended. I agree with you that these statutes must be interpreted to answer your question. However, I am going to restrict this opinion to your one question as to whether or not a license can be transferred from the 5-mile limit beyond the limits of the incorporated municipality to within the city limits.

There is an opinion of this office addressed to Chester Hunker, Bureau of Revenue, dated August 7, 1951, being Opinion No. 5396, which materially answers your question and with which this office agrees.

However, for your convenience at this time, I will answer your specific question. It is the opinion of this office that a liquor license outside a municipality but within the 5-mile area can be transferred to a location inside the city limits.

This opinion is based on the fact that it is the feeling of this office that the statutes mentioned above, as amended, places certain restrictions on the Liquor Division's authority to transfer licenses, but these restrictions specifically do not apply to the case outlined in your request.

I hope this will give you the information necessary.