

**Opinion No. 53-5855**

December 3, 1953

**BY:** RICHARD H. ROBINSON, Attorney General

**TO:** Honorable Patrick F. Hanagan District Attorney Fifth Judicial District Roswell, New Mexico

{\*277} Your letter of November 18, 1953, in which you ask for an interpretation of § 61-1014, 1941 Compilation, which pertains to the hours of sale of alcoholic beverages and in which you ask for the interpretation of this office regarding the phrase "deliver and permit the consumption of alcoholic beverages on their licensed premises" has been received.

{\*278} Our first reactions upon reading your request and the statutes were that the statute was quite clear. That is, that to permit the consumption of alcoholic beverages upon the licensed premises meant exactly what it said and that doing so would be illegal. However, we did feel that we should make a thorough search to determine if there had been any judicial interpretation of a similar phrase in this state, or any other state, by a court of record. Such a search was made to no avail. Evidently no other state has a similar phrase in its statute which has ever been interpreted by a Court of record.

Frankly it is our opinion that the phrase lends itself to but one interpretation. That is, that if the licensee permits the consumption of alcoholic beverages upon his licensed premises during illegal hours that he is acting contrary to the statute. Generally speaking, the work "permit" means "knowingly permit" and if the licensee knows that alcoholic beverages are being consumed upon his licensed premises during illegal hours then he would, in our opinion, be permitting it and thus violating the statute. It is our opinion that to be a violation of this statute, the licensee must not only knowingly permit the consumption but that said consumption must be upon his licensed premises. If both of these factors exist then the licensee would be in violation of § 61-1014, N.M.S.A., 1941 Compilation.

I sincerely hope this answers fully the questions which you inquired about in your correspondence.