

Opinion No. 13-1100

September 5, 1913

BY: H. S. CLANCY, Assistant Attorney General

TO: Mr. S. H. Nimmo, Deputy Sheriff, Cloudcroft, N. M.

MINORS.

Law prohibits the sale of liquor to minors and their loitering in or about pool rooms.

OPINION

{*274} I am in receipt of your letter of the 2nd inst. inquiring as to the law relating to selling liquor to minors and to minors loitering in or about pool rooms.

Your letter should have been addressed to the District Attorney for Otero County, as he is made, by law, the legal adviser of all county officials; but as I happen to know that Mr. Hamilton is busily engaged in court at Las Cruces, and that an answer to your letter by this office will not be construed by him as offensive, I have to say:

By Section 1, Chapter 3, Laws of 1901, it is declared to be unlawful for any person to sell or give to any minor any intoxicating liquor "except upon the written consent of the parent or guardian of such minor." While this language is capable of different construction, yet it was undoubtedly the intention of the legislature to permit the sending of minors, in the capacity of errand boys, to procure liquor in bulk for the use of a parent or guardian, and it is inconceivable to believe that any parent or guardian could be so degenerate as to furnish his son, or ward, with a written consent that he should stand at a bar and buy and consume drinks. Moreover, by Section 3 of the same act, it is made unlawful for any keeper of a saloon to permit a minor to loiter upon, or frequent his premises, so that even if it could be said that a minor, with a written consent from his parent or guardian could stand at a bar and take one drink, the saloon-keeper would be liable if he permitted such minor to loiter in his place for even an extremely short period of time.

So far as the loitering of minors in or about a pool room is concerned, I refer you to Chapter 15 of the Laws of 1913, which subjects the owner of any pool room, who shall permit minors under the age of eighteen years to attend, frequent or loiter about the same, to a fine not exceeding \$ 20.00 and imprisonment not exceeding thirty days.