

Opinion No. 14-1206

April 27, 1914

BY: H. S. CLANCY, Assistant Attorney General

TO: Mr. Arthur Carr, Chama, New Mexico.

MINORS.

As to employment of minor under the age of 18 years in any sort of work in a pool room.

OPINION

{*67} I am in receipt of your letter of the 25th inst., in which you inquire as to the law prohibiting minors from frequenting pool rooms, and as to whether it would be a violation of the law to employ a minor in a pool room, if the parents of such minor should consent to his being so employed.

Section 1268 of the Compiled Laws of 1897 has no bearing upon this subject, as that section applies only to saloon-keepers who permit minors under the age of twenty-one years to play pool upon their premises. The law which applies to the questions contained in your letter will be found as Chapter 15 of the Laws of 1913, which prohibits the attending, frequenting or loitering of any minors under the age of eighteen years in or about any pool room in New Mexico. If a minor is employed in a pool room, he must attend and frequent the same, although he may not have much time to loiter, and it is the opinion of this office that it would be illegal to employ such minor in a pool room. This view is taken by the Supreme Court of Iowa in *State vs. Johnson*, 79 N. W. 62, where the court stated that if a minor is permitted to enter a pool room "and remain therein for any purpose," the keeper is amenable to the penalties of the law. You {*68} will observe that the court uses the words "for any purpose," which would cover your case if a minor was employed in a pool room.

So far as the consent of the parents of a minor to his being employed in a pool room is concerned, it is not believed that such consent would be any bar to the prosecution of a pool room keeper for allowing a minor to attend, frequent or loiter in his place. A question similar to this was raised in the case of *McMonigal vs. State of Texas*, 45 S. W. 1038, where *McMonigal*, who was a saloon-keeper, employed a minor in his saloon with the consent of the minor's father. The statute under which this prosecution was had provided that a penalty should be inflicted upon a liquor dealer who should "permit any person under the age of twenty-one years to enter and remain in such house or place of business." Upon the trial of this case the defense was made that the minor was so employed by and with the consent of his father, but the court held that this defense was of no avail, stating in that regard:

"It is to the interest of the state to preserve the morals of its youth. To conserve this interest, its legislature has deemed it advisable to require liquor dealers not to permit minors to enter and remain on the premises where intoxicating liquors are sold. Though a father, who 'always voted the Democratic ticket and never refused a drink,' may not be aggrieved [Illegible Word] a liquor dealer permitting his minor son to enter and remain on such premises, and such father who has hired his son to work in such place cannot maintain an action on the liquor dealer's bond, the right of action given by the state for a breach of its condition remains the same."

I believe that it would be unsafe for any pool room keeper to employ a minor under the age of eighteen years in any sort of work connected with his establishment, as he would undoubtedly make himself liable to prosecution under Chapter 15 of the Laws of 1913 above referred to.