

Opinion No. 36-1436

September 26, 1936

BY: FRANK H. PATTON, Attorney General

TO: State Board of Liquor Control, Santa Fe, New Mexico. Attention: William G. Johnson, Chairman.

{*140} You have requested an opinion from this office as to whether or not a wholesale liquor license held by a person, partnership or corporation in this state, may be transferred to another person, partnership or corporation without the payment of another license fee by the purchaser.

We have carefully examined the provisions of Chapter 112, Session Laws of 1935, and find no provision whatever authorizing the transfer of such licenses. The general rule as to licenses of this nature is that they are grants of personal privileges and are not transferable. Specifically referring to liquor licenses we find the following statement in 33 C.J. p. 561, Sec. 156, under the heading of Intoxicating Liquors:

"A license is not assignable or transferable, unless by the aid of a statute, and, even where one takes an assignment of the license, on buying or leasing the licensee's business, and continues to sell at the same place, and otherwise in obedience to the law, he is not protected by the license."

This general rule is supported by a great number of cases cited in support of the above statement and we find no cases to the contrary.

There are some exceptions to the general rule as stated above, as for instance where the original holder of the license dies and his heirs or personal representatives continue the business for a time, but such exceptions should be submitted to us specifically if and when they arise.

By J. R. MODRALL,

Asst. Atty. General