

Opinion No. 37-1793

October 22, 1937

BY: FRANK H. PATTON, Attorney General

TO: Mr. W. R. Meador Chief, Div. of Liquor Control Bureau of Revenue Santa Fe, New Mexico

{*172} Your letter of October 21st inquires whether upon the death of the holder of a dispenser's liquor license the heir of the deceased may continue to operate the business under the original license and bond.

The general rule seems to be that a license to pursue a given occupation or business is terminated upon the death of the licensee, 37 C. J. 246. A license is a special privilege of personal trust and confidence and is not assignable ordinarily without the consent of the licensing authority. 37 C. J. 245.

Section 702, Chapter 130 of the Laws of 1937 provides for the issuance of licenses upon application and paragraph C of said section provides that licenses shall not be transferable and no refund shall be made for unexpired time.

Paragraph (b) of said section makes provision for a bond to be furnished by the applicant and I find no provision permitting any other person to operate such business except by proviso in paragraph (c), which permits another person to operate the business where same is being closed out under jurisdiction of the Court.

I find nothing other than these provisions which are applicable to the question submitted by you and I therefore hold that the general rule above quoted applies and the heir should therefore make new application for license and either furnish a new bond or have the bonding company agree to in some way {*173} transfer liability to such new applicant.