

**Opinion No. 40-3559**

June 29, 1940

**BY:** FILO M. SEDILLO, Attorney General

**TO:** Mr. M. A. Romero, Mayor of Las Vegas, Las Vegas, New Mexico.

{\*147} By telephone you inquire whether the city official in charge of collecting municipal liquor license taxes would be held liable {\*148} on his bond for the nonpayment of any licensee of any installment in the future if he is issued a license with the privilege of paying it in installments. You called my attention to the fact that failure to collect deferred installments in such case has been made a charge against the official under the old law.

The old liquor law made no provision whatever for payment in installments, and hence if an official issued a license without collecting the full fee he did so at his own risk, and if the licensee later failed to pay any portion of it the official became personally liable.

Section 1103 of Chapter 236, Laws of 1937, on the other hand, specifically grants municipalities the power to provide for the payment of license taxes in installments, and when the city does provide by ordinance for such installments, and the licensee fails to pay any one or more of them, the official is not liable therefor. In such cases the only remedy available is the closing of the business on failure to continue payment of installments as provided by the ordinance. If the ordinance, however, specifies the annual license tax and makes no provision for payment in installments, then the official must collect the full annual license tax, and if he fails so to do and the licensee defaults in payments, the official is liable just as he was under the old law.

I trust the above gives you the information desired.

A. M. FERNANDEZ,

Asst. Atty. Gen.