

**Opinion No. 45-4680**

March 13, 1945

**BY:** C. C. McCULLOH, Attorney General

**TO:** Mr. Victor Salazar, Chief Division of Liquor Control Santa Fe, New Mexico

{\*40} In your letter dated March 10, 1945 you refer to the provision in Section 61-514 of the 1941 Compilation prohibiting the licensing of persons in certain instances, and you inquire whether this provision holds against the licensee when the bar manager has been arrested and found guilty of selling liquor during prohibited hours.

Section 61-514 provides, in part, as follows:

"The following classes of persons shall be prohibited from receiving licenses under the provisions of this act: (1) Persons who have been convicted of two (2) separate misdemeanor violations of this act in any calendar year, or of any felony, except those persons restored to civil rights."

One violation by an agent or employee of the licensee might constitute a violation by the licensee, but unless the licensee himself has been convicted twice in a calendar year of misdemeanor violations of the Liquor Act, the licensee would not be prohibited under this section from receiving a renewal license.

However, if the licensee allows his employees to violate the Liquor Act by selling liquor during prohibited hours, even though he might not be convicted, yet he would be liable under the act for violating the act, and under Sec. 61-601 of the 1941 Compilation, his license would be subject to revocation.