OFFICIAL OPINION NO. 54

June 21, 1951.

Honorable Bernard E. Doyle,
Chairman,
Indiana Alcoholic
Beverage Commission,
201 Illinois Building,
Indianapolis, Indiana.

Dear Sir:

Your letter of 7 June 1951 reads as follows:

"A legal interpretation of the recently passed House Bill 131 is requested by the Indiana Alcoholic Beverage Commission, 201 Illinois Building, Indianapolis, Indiana.

The question pertains to the language used in Section 7, of the above entitled law.

'Sec. 7. Existing package liquor store dealer's permits—Limitations not applicable. The limitations upon the number of package liquor store dealer's permits in this act shall not apply to existing package liquor store dealers. These limitations shall apply only to the granting of permits to new package liquor store dealers and applications for the change in location of any existing package liquor store dealer's permit.'

The question is whether or not existing package liquor store dealer permits may be transferred from one location to another."

House Bill 131 is "An Act affecting package liquor store dealers and declaring an emergency". Section 6 of said Act provides:

"* * * Only one (1) package liquor store dealer's permit shall be granted in each incorporated town or city for each five thousand (5,000) persons or fraction thereof as determined by the last United States census."

Section 7 of the Act is as you have set out in your letter. Section 12-502 Burns 1942 Replacement, same being the Acts
of 1935, Ch. 226, Clause 7; 1937, Ch. 197, Sec. 3; 1939, Ch. 30, Sec. 1, Page 79, among other things, provides:

"* * * transfers of permits from one holder to another holder, or from one location to another location may be made in case such permits have not less than three (3) months of unexpired terms, upon such terms and under such rules and regulations as the commission may prescribe:"

Section 7 of House Enrolled Act 131 specifically exempts present or existing package liquor store dealers. The exemption is not applicable to the store, but to the dealer.

Section 6, therefore, will in no way affect existing dealers so long as they continue in business under a permit, except as hereinafter stated. Per chance a dealer fails or neglects to renew his permit upon the expiration of his present permit, or upon the expiration of any hereafter permit issued to him, he will automatically lose his exemption by Section 7. The limitations under Section 6 shall apply to the granting of permits to new package liquor store dealers. Your problem presents itself in the language of Section 7, "* * * an application for the change in location of an existing package liquor store dealer’s permit.” In my opinion this has reference only to applications for change in location of a package liquor store during the life of the permit—whether the holder thereof be a present or new permittee.

Specifically answering your question, it is my opinion that an existing package liquor store dealer located in a town or city having more than one package liquor store dealers’ permit for each 5,000 persons or fraction thereof may not transfer from one location to another during the life of his permit. He may, however, apply for another or new permit at a new location.