

EXECUTIVE DEPARTMENT

DIVISION OF ALCOHOLIC BEVERAGE CONTROL

TO: ZONE OFFICES AND LOCAL BOARDS

SUBJECT: DEFINITION OF "SCHOOL" UNDER THE ALCOHOLIC BEVERAGE CONTROL LAW.

The Alcoholic Beverage Control Law prohibits the issuance of a retail liquor or wine license for on-premises consumption or off-premises consumption for any premises which shall be on the same street or avenue and within 200 feet of a building occupied exclusively as a school; the measurement to be taken in a straight line from the center of the nearest entrance of such school to the center of the nearest entrance of the premises to be licensed.

This prohibition does not apply to any premises so located which were maintained as a bona fide hotel, restaurant, catering establishment or club, on or prior to December 5, 1933, or to any premises at which such a license has been in existence continuously from a date prior to the date when the school within the restricted distance had been occupied as such.

The question is frequently presented whether a "school" as used in the statute, is to be interpreted in its broadest sense or in a limited sense.

The question was presented to the Court of Appeals under a similar provision in the Liquor Tax Law, and the language of the opinion is hereinafter quoted for the guidance of the personnel of the State Liquor Authority.

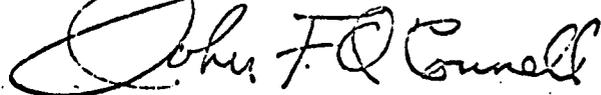
"A "school" in its broadest sense may be said to include any institution devoted to instruction of any kind; and in the same broad sense a "schoolhouse" may be defined as a place or building used for any such purpose. But there are a great variety of so-called schools devoted to many special sciences and trades. There are schools for education in the professions of law, medicine and theology; schools for painting, music and other advanced arts; schools for stenography and typewriting; schools for dancing, gymnastics, physical culture and boxing; and schools for almost numberless other more or less practical occupations. Many, if not all, of these special courses are taken up by persons of mature years who have passed through the earlier educational training which is an essential preliminary to every avocation or vocation requiring intelligence, thought or talent. All are instructive to a degree, but none are within the usually accepted definition of education. Much less can they be within the purview of a particular statute unless they are plainly specified in its terms, and still less are they to be considered within the definition of "schools" and "schoolhouses" as those words are ordinarily understood.

"This phrase of the statute indicates that the legislature, in using the term "schoolhouse", had in view primarily the common public schools devoted to such general elementary and intermediate instruction as is adapted to the education of our children and youth; and perhaps secondarily such semi-public and private schools as are conducted for the same purpose. Broadly classified this includes all "schoolhouses" in which

our so-called grammar and high schools are conducted. While we can find no express warrant in the words of the statute for placing private and semi-public schools in the same category with common public schools, we are satisfied that it was not the intention of the legislature to exclude the former from its wholesome protection. That is the utmost limit, however, to which the language of the statute can be extended. The evident intention of the legislature was to remove the masses of our school-going children and youth as far as possible from the influences of the liquor traffic, and the most effective means of accomplishing this end was thought to be the interdiction of the traffic within a certain radius surrounding the ordinary schoolhouse. It is obvious that, unless we draw a line with reference to schoolhouses at the point thus indicated, we must go to the extreme length of holding that the term "schoolhouse" includes every place where instruction is given of any kind or degree, and to persons of any age."

In accordance with the opinion of the Court of Appeals only those buildings occupied exclusively as public grammar and high schools and semi-public and private schools as are conducted for the same purposes are to be considered "schools" within the meaning of the Alcoholic Beverage Control Law. Colleges, normal schools, business schools, nurse's training schools and similar schools are not considered "schools" within the meaning of the Alcoholic Beverage Control Law and premises located within 200 feet of such schools may, in the discretion of the Liquor Authority, be licensed to traffic in alcoholic beverages.

STATE LIQUOR AUTHORITY



John F. O'Connell
Chairman

By: James H. Goodier
Secretary to the Authority