

Opinion No. 47-4992

February 26, 1947

BY: C. C. McCULLOH, Attorney General

TO: Tom O. Montoya, Chief Division of Liquor Control Bureau of Revenue Santa Fe, New Mexico

{*16} In your letter dated February 26, 1947, you refer to Section 61-516 of the 1941 Compilation, Pocket Supplement, and request an opinion as to your authority to revoke liquor licenses granted by your predecessor in office, where the proper steps with reference to posting notice were not taken by the licensee before securing the license. The above section provides in part as follows:

"Before any license may be transferred for use at a new location and before any new retailers or dispensers license is issued for a location where alcoholic liquors are not now being sold the chief of division shall cause a notice of the application therefor to be posted conspicuously on the immediate premises for which such liquor {*17} license or transfer is sought. The posting shall be in form of a placard provided by the division of liquor control, and such posting shall be over a continuous period of twenty (20) days prior to the issuance of such license or transfer. No license or transfer of a license shall issue until these posting requirements have been met and the applicant has paid to the division of liquor control the cost of such posting."

This language places the duty on the chief of division to cause the notice to be posted. However, you may have a rule or regulation which would require the applicant to actually post the notice for the required length of time. In any event, a license issued contrary to the requirements of this paragraph has been illegally issued and, in my opinion, would be grounds for revocation of the license after proper notice and hearing as provided by law.