

Opinion No. 69-126

October 30, 1969

BY: OPINION OF JAMES A. MALONEY, Attorney General James C. Compton, Jr.,
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TO: Raymond E. Keithly, Attorney for the City Commission, City of Truth or
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QUESTIONS

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When may a municipality fix its annual liquor license tax?

CONCLUSION

See analysis.

OPINION

{*203} ANALYSIS

Section 46-4-2, N.M.S.A., 1953 Compilation (1969 P.S.), provides in part that a municipality may impose a liquor license tax in addition to those liquor license fees chargeable by the State of New Mexico. A municipality must fix by ordinance, on or before June first, the amount, the dates and the manner of payment of this tax. The license tax period contemplated in Section 42-4-2 begins July first of each year and ends June thirtieth of the following year. Section 46-4-5, N.M.S.A., 1953 Compilation.

A new municipal ordinance is not essential each year in order to impose a valid liquor license tax. **Sunset Package Store v. City of Carlsbad**, 79 N.M. 260, 442 P.2d 572 (1968). By employing the phrase "shall be fixed on or before June 1 of each year," however, the Legislature intended that the elements of each tax should be determined and fixed prior to each June first. After that date, a municipality may no longer change the tax for the ensuing liquor license tax period that will begin on July first of that year.

Any action by the municipality after June first, therefore, would not effect the liquor license tax for the ensuing tax period and would apply, if at all, only to the tax period in the following year.