

Opinion No. 37-1681

June 21, 1937

BY: FRANK H. PATTON, Attorney General

TO: Mr. D. E. Rodriguez Mesquite, New Mexico

{*126} Section 701 of Chapter 130 of the Laws of 1937 provides that "persons who have been convicted of a felony or for any violation of this Act" shall be prohibited from receiving licenses under the provisions of the Act, and you inquire whether a person who has been pardoned would be precluded from receiving a license by reason of that provision.

Although there are a few state authorities to the contrary, it is my opinion that a **complete pardon** by the Governor would exclude a person so convicted from the prohibition of this section of the statute. In the case of *Ex Parte A. H. Garland*, 18 L. Ed. 366, at page 371, the Supreme Court of the United States has broadly stated the effect of such a complete pardon in the following words:

"Such being the case, the inquiry arises as to the effect and operation of a pardon, and on this point all the authorities concur. A pardon reaches both the punishment prescribed for the offense and the guilt of the offender; and when the pardon is full, it releases the punishment and blots out of existence the guilt, so that in the eye of the law the offender is as innocent as if he had never committed the offense. If granted before conviction, it prevents any of the penalties and disabilities, consequent upon conviction, from attaching; if granted after conviction, it removes the penalties and disabilities, and restores him to all his civil rights; it makes him, as it were, a new man, and gives him a new credit and capacity."

In the case of *People v. Sackett*, 40 N. Y. Supp. 413, the Supreme Court of the State of New York held that a liquor license could be issued to a person who had been convicted of a felony if he had been pardoned, and made this statement:

"It is for the interest of the state that all persons convicted of crime should become lawabiding {*127} citizens, and evince by good conduct their desire to become better men. The restoration afforded by a pardon to civil rights covers all civil rights, and I think that one who has become a voter, and who might lawfully hold any office, can as well discharge the responsibility of hotel keeping, including liquor selling, and is no longer a convict under the ban of the law."

In addition to this, the same provision was found in the old liquor law as Section 601 of Chapter 112, Laws of 1935, and I am informed by the Liquor Division of the Bureau of Revenue that the practice under that law has been to consider persons having a complete pardon as not being included within that prohibition.

By: A. M. FERNANDEZ,

Asst. Atty. Gen.