

Canal property, including the full width of the bed and banks thereof, located in Circleville Township, Pickaway County, Ohio, and described as follows:

Beginning at a line drawn through station 4+50, of the W. O. Sanzenbacher Survey of said canal property, and running thence northerly with the lines of said canal property, two hundred fifty (250') feet, more or less, to the center line of Hargus Creek, and containing fifty-seven hundredths (0.57) of an acre, more or less, excepting therefrom that portion of said canal property as sold to The Norfolk & Western Railroad Company, in 1911.

Upon examination of this lease, which is executed by you under your general authority as successor to the power, authority and duties of the Board of Public Works and under the more special authority conferred by an Act of the 79th General Assembly enacted June 7, 1911, 102 O. L., 293, I find that the lease has been properly executed by you in your official capacity above stated and by John Twaddle, the lessee therein named. I further find upon examination of this lease that the terms and provisions thereof and the conditions and restrictions therein contained are in conformity with said Act and with other statutory provisions relating to leases of this kind. I am accordingly approving this lease, as is evidenced by my approval endorsed upon the lease and upon the duplicate and triplicate copies thereof, all of which are herewith enclosed.

Respectfully,

HERBERT S. DUFFY,
Attorney General.

1187.

DEPARTMENT OF LIQUOR CONTROL—PROHIBITION OF CREDIT TRANSACTIONS—RELATES TO SALES BY MANUFACTURER TO THE DISTRIBUTOR OR PERMIT HOLDER—NOT TO SALES TO CONSUMERS BY PERMIT HOLDERS.

SYLLABUS:

The prohibition of credit transactions contained in Section 6064-24, General Code, as amended by Amended House Bill No. 501, enacted by

92nd General Assembly, relates only to sales by manufacturers to distributors and retail permitholders and by distributors to retail permitholders, and does not pertain to sales by permitholders to consumers.

COLUMBUS, OHIO, September 17, 1937.

HON. J. W. MILLER, *Director, Department of Liquor Control, Columbus, Ohio.*

DEAR SIR: This will acknowledge receipt of your recent inquiry in which you request my opinion on the scope of Section 6064-24, General Code, as amended in Amended House Bill No. 501, enacted by the 92nd General Assembly.

You question whether the above statutory provision prohibits sales by the holders of A-1 or B-1 permits to non-permitholders for home use as authorized by Section 6064-15 on a credit bases. The portion of Section 6064-24 pertinent to this issues reads as follows:

“No manufacturer shall sell or offer to sell to any wholesale distributor or retail permit holder and no wholesale distributor shall sell or offer to sell to any retail permit holder and no wholesale distributor or retail permit holder shall purchase or receive from any manufacturer or wholesale distributor any malt or brewed beverages except for cash. * * *”

You will notice that the above provision only relates to sales by a manufacturer to a wholesale distributor or retail permit holder and by a wholesale distributor to a retail permit holder. This provision is clear and unambiguous and therefore not open to construction. Therefore, there is no authority to expand or limit it by statutory construction. Paraphrasing the language of the Supreme Court of Ohio in the case of State, ex rel. Brown, 121 O. S. 329, 331, the language employed by the Legislature is clear and unambiguous and it is not the province of the court under the guise of construction, to ignore the plain terms of a statute or to insert a provision not incorporated therein by the Legislature.

Therefore, it is my opinion that Section 6064-24, General Code, does not (nor does any other provision of the Liquor Control Act, 6064-1, et seq.) require that sales to consumers should be on a cash basis.

Respectfully,

HERBERT S. DUFFY,

Attorney General.