



OFFICE OF THE ATTORNEY GENERAL OF TEXAS
AUSTIN

GERALD C. MANN
ATTORNEY GENERAL

Honorable R. D. Oswalt
County Attorney
Wilbarger County
Vernon, Texas

Dear Sir:

Opinion No. 0-5400-A
Re: Illegality of transportation of beer from Oklahoma to Texas without having Texas beer tax stamps affixed thereto, and related matters.

You are advised that since the above opinion was mailed, it has been brought to our attention that the penalty provision quoted on page 3 thereof as Article 667-26 of Vernon's Annotated Texas Penal Code, was erroneous, due to its amendment by the 48th Legislature and that same now reads as follows:

"Conviction upon criminal prosecution for any violation of this Article shall require assessment of penalties as provided in Section 41, Article I of this Act." Section 21, Chapter 325, Acts of the Regular Session, 48th Legislature."

Section 41, Article I, of the Texas Liquor Control Act, as amended by Section 8, Chapter 325, Acts of the Regular Session of the 48th Legislature, reads as follows:

"Any person who violates any provision of this Act for which a specific penalty is not provided shall be deemed guilty of a misdemeanor and upon conviction be punished by fine of not less than One Hundred (\$100.00) Dollars and not more than One Thousand (\$1,000.00) Dollars, or by imprisonment in the county jail for not more than one year, or by both such fine and imprisonment.

Honorable R. D. Oswalt, page 2

"The term 'specific penalty' as used in this Section means and refers only to a penalty which might be imposed as a result of a criminal prosecution."

This supplement is not to be construed as altering in any manner the conclusions reached in the original opinion but is limited to a correction of quoted penalty provisions.

Very truly yours

ATTORNEY GENERAL OF TEXAS

Handwritten signature of Ross Little

RECEIVED 106 2 1946
FIRST ASSISTANT
ATTORNEY GENERAL

By *Eugene Alvis*
Eugene Alvis

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APPELLATE
OPINION
COMMITTEE