

**LETTER OPINION**  
**93-L-224**

July 14, 1993

Roger D. Schell  
Bottineau City Attorney  
116 West 5th Street  
Bottineau, ND 58318

Dear Mr. Schell:

Thank you for your July 7, 1993, letter asking whether the city of Bottineau may issue a Sunday alcoholic beverage permit to alcoholic beverage establishments that do not pay your city's lodging and restaurant tax. Your question has been presented to me in relation to the amendments to N.D.C.C. ch. 5-02 set forth in Senate Bill 2265 and effective on August 1, 1993.

Enclosed is a copy of an opinion I issued to Bismarck City Attorney Charles Whitman on June 25, 1993, discussing this issue. I believe this opinion will answer the questions you have concerning the relationship between the Sunday permit law and the city lodging and restaurant tax.

Since the city of Bottineau has and will have a lodging and restaurant tax in place on July 31, 1993, no alcoholic beverage licensee in your city will be qualified to obtain a Sunday alcoholic beverage permit from the city unless that licensee has paid and continuously pays the lodging and restaurant tax. A licensee can elect to pay the lodging and restaurant tax even though the licensee does not serve prepared food. The payment of the tax is a specific requirement for qualification to obtain a Sunday alcoholic beverage permit issued pursuant to city ordinance and N.D.C.C. ? 5-02-05.1 in those cities in which such a tax will be in place as of July 31, 1993.

I hope I have adequately responded to your inquiry.

Sincerely,

Heidi Heitkamp  
ATTORNEY GENERAL

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Enclosure

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