

**OPINION
71-353**

October 13, 1971 (OPINION)

Mr. L. A. Koehler

State Food Commissioner and

Chemist

State Laboratories Department

RE: State - Restaurant Licenses - Prepackaged Foods

This is in reply to your letter of August 30, 1971, wherein you request the opinion of this office with regard to whether section 5-02-07, North Dakota Century Code, which permits the serving of prepackaged preserved pizzas and sandwiches in bars, should also be construed to permit the serving of such pizzas and sandwiches at places other than bars, which places have not been licensed under the restaurant licensing law.

It would appear that the legislature has provided that prepackaged and preserved pizzas and sandwiches approved by the state laboratories department and delivered to the customer with the packaging intact may be served in bars without such bars being first required to obtain a restaurant license. However, since section 5-02-07, North Dakota Century Code refers to the sale of such items only on premises licensed to sell alcoholic beverages at retail, it does not apply to premises other than those set forth in section 5-07-07. Sales on other premises would be governed by the general laws applicable to the sale or serving of such items.

HELGI JOHANNESON

Attorney General