

Opinion No. 575**Wholesale Dealers—Bonds, Protection
of—Non-Residents Protected.**

HELD: The wholesale dealer's bond provided for by Chapter 164, Laws of 1933, protects sellers who sell merchandise to the wholesale dealer in another state as well as sellers who make such a sale within the State of Montana.

July 13, 1934.

You have submitted the question whether the seller of merchandise in another state, to a trucker, who, after making the purchase in such other state, transports the merchandise by truck to Montana, and sells it within the State of Montana, is protected by the wholesaler's bond provided for by Chapter 164, Laws of 1933.

Subdivision b of said chapter, provides:

"Before issuing any license as provided by this Act, the Commissioner shall require the applicant to execute and file with him a good and sufficient surety bond in the sum of Five Thousand Dollars (\$5000.00) to the State of Montana, executed by the applicant as principal and a surety company qualified and authorized to do business in this state, as surety; the form thereof to be fixed by the Commissioner, conditioned for the faithful performance of his duties as a dealer at wholesale, for the observance of all laws relating to the carrying on of the business of a dealer at wholesale, for the payment when due, of the purchase price of produce purchased by him, for the prompt reporting of sales as required by law to all persons consigning produce to the dealer as licensee for sale on commission and the prompt pay-

ment to persons entitled thereto of the proceeds of such sales less lawful charges, disbursements and commission. Such bond shall cover all wholesale produce business transacted in whole or in part within the State of Montana."

The question arises whether the effect of the last sentence is to exclude from protection of the bond, seller of merchandise in another state. In my opinion this sentence has reference to the location of the wholesale produce business and not to the situs of the contract and that it was the intention of the legislature, in using this sentence, to enlarge the scope of the statute as to persons who are required to obtain a license and furnish a bond rather than to restrict the obligation of a wholesale dealer on this bond to purchases made within the state. Your question should, therefore, be answered in the affirmative.