No. 116

LICENSES—STATE BOARD OF HEALTH—STATE BOARD OF FOOD DISTRIBUTORS

Held: The operator of a restaurant licensed by the State Board of Health under the provisions of 2589, Revised Codes of Montana, 1935, is also required to purchase a license of the State Board of Food Distributors under the provisions of Chapter 49 of the Laws of 1939.

May 19, 1941.

Mr. H. O. Vralsted
County Attorney
Judith Basin County
Stanford, Montana

Dear Mr. Vralsted:

You have asked the following question:

> "Is the operator of a restaurant licensed by the State Board of Health under the provisions of Section 2589, Revised Codes of Montana, 1935, also required to purchase a license of the State Board of Food Distributors under the provisions of Chapter 49, Laws of 1939?"

Section 2589, Revised Codes of Montana, 1935, insofar as pertinent here provides:

> "It shall be unlawful for any person, persons, firm, or corporation to conduct any restaurant . . . without having a license issued by the State Board of Health of Montana . . ."

Chapter 49, Laws of 1939, provides, among other things, as follows:

> "Section 1, subd. a. The term 'food store' shall mean a . . . restaurant . . .

"Section 10. State Board of Food Distributors shall require and provide for the annual registration and licensing of every food store now or hereafter doing business within this State . . .

"Section 12, subd. c. Nothing in this Act shall be construed to change any of the provisions of the Pure Food and Drug Act of Montana, being Chapter 237 of the R. C. M., 1935."

The license required under Section 2589, Revised Codes of Montana, 1935, is paid to the State Board of Health and the license required under Section 10, Chapter 49, of the Laws of 1939 is paid to the State Board of Food Distributors—two separate and distinct licenses. According to the provisions of Section 12, subdivision (c) of said Chapter 49, Chapter 237 of the Revised Codes of Montana, 1935, is not affected or any way changed.

Therefore, it is my opinion the operator of a restaurant licensed by the State Board of Health under the provisions of Section 2589, Revised Codes of Montana, 1935, is also required to purchase a license of the State Board of Food Distributors under the provisions of Chapter 49 of the Laws of 1939.

Sincerely yours,

JOHN W. BONNER
Attorney General