

Formaldehyde — Poisons — Pharmacists — Grocers — Paris Green—Merchants.

A grocer may sell formaldehyde, paris green and other poisons without being a registered pharmacist.

O. J. Armstrong, Esq., January 4, 1926.
Secretary, Retail Merchants Association of Montana,
Kalispell, Montana.

My dear Mr. Armstrong:

You have requested my opinion whether a retail grocer or general merchant may sell formaldehyde, paris green and other poisons commonly used in the farming industry.

Former Attorney General Ford, in an opinion appearing in Vol. 8, opinions of attorney general, page 82, held that a county agent may sell formaldehyde and gopher poison without being a registered pharmacist.

That opinion refers to section 1633 of the revised codes of 1907, and to section 12 of chapter 134 of the laws of 1915. Section 12 of chapter 134 of the laws of 1915 is now section 3181, R. C. M. 1921.

It appears that the code commissioner omitted section 1633 of the revised codes of 1907 from the codes of 1921. Because of chapter 54, laws of 1925, section 1633 of the revised codes of 1907 cannot any longer be considered as a part of the laws of this state.

In answer to your question, therefore, it is necessary to consider section 3181, R. C. M. 1921, without reference to section 1633 of the codes of 1907.

Section 3181 prohibits the vending of drugs, medicines and poisons by any except registered pharmacists, but contains the following exceptions:

“provided, that nothing in this act shall interfere with the keeping, distributing, or handling of drugs, acids, or poisons by merchants or corporations, for use in their business, when kept in original and plainly labeled packages; provided, also, that nothing in this act shall interfere with any physician in his regular practice, nor with the wholesale business of any dealers, nor with the business of merchants in towns where there is no regularly licensed pharmacist when selling drugs, medicines, pharmaceutical, or proprietary medicinal preparations in original and plainly labeled packages, as the public may require; provided, also, that nothing herein shall be construed to prevent the sale of any patent or proprietary medicine in the original package, when plainly labeled, nor such non-medicinal articles as are usually sold by general merchants.”

Section 3185 also requires certain poisons to be labeled in a certain manner.

It is my opinion that the exception contained in section 3181, R. C. M. 1921, permits a retail grocer or general merchant to sell formaldehyde, paris green and other poisons in the original packages, plainly labeled, without infringing upon rights of registered pharmacists.

Very truly yours,

L. A. FOOT,
Attorney General.