

Hail Insurance—Advertising—Publication—Printing.

Display advertising is a "publication" within the meaning of section 276 R. C. M. 1921.

Held, on the facts stated, that the state board of hail insurance cannot pay for advertising more than the rate fixed in section 276.

Further held, that the state cannot in consideration of a reduced rate for advertising in one paper pay more for advertising in another paper owned by the same person than the rate charged other advertisers for the same service in view of the provisions of section 279 R. C. M. 1921.

May 15, 1928.

E. K. Bowman, Esq.,
Chairman, State Board of Hail Insurance,
Helena, Montana.

My dear Mr. Bowman:

You submit the following state of facts, with request for an opinion:

The state board of hail insurance desires to run certain display advertising in the "Montana Farmer" and the "Treasurebelt News", both of which publications are owned by the same persons. The regular commercial rate in the "Montana Farmer" is \$3.22 per column inch, and that in the "Treasurebelt News" is \$0.60 per column inch. The publishers have agreed that they will handle the advertising for the state board of hail insurance in both the above papers at the rate of \$1.50 per column inch for each publication.

You have requested my opinion as to the legality of such an arrangement. In an opinion of this office rendered September 28, 1927, to the state purchasing agent it was held that display advertising is a "publication" within the meaning of section 276 R. C. M. 1921, and is therefore governed by the rates specified in said section.

I understand that a column inch is equivalent to a folio. Therefore, the maximum rate that may be paid per column under section 276 is

\$1.50 for the first insertion and \$0.50 for each subsequent insertion. Furthermore, under section 279, the board of examiners is forbidden to approve a claim against the state for legal advertising without the publisher's affidavit to the effect that the rate charged the state is not in excess of the minimum rate charged any other advertiser for the same number of insertions in the same sized type.

In view of the statute above referred to, it is my opinion that it would be illegal for the state to pay more than \$1.50 per inch for the first insertion of advertising in the "Montana Farmer", and it could not pay more than \$0.50 per inch for each subsequent insertion. The state could also pay the above prices for publication in the "Treasurebelt News" if the publishers could consistently make the affidavit provided by section 279.

In view of the facts set out, however, I assume that the publishers could not, in good faith, make such an affidavit because the regular rate in the paper last named is \$0.60 per inch.

Very truly yours,

L. A. FOOT,
Attorney General.