

**Patent Medicines—Toilet Articles—Sale—License.**

No license is required for sale of patent medicines in original plainly labeled containers.

Mr. H. J. Faust,  
Secretary, Retail Merchants Association,  
Drummond, Montana.

July 16, 1931.

My dear Mr. Faust:

You have requested an opinion whether it will be lawful for any dealer in general merchandise to handle patent medicines and toilet articles that are put up in the original packages by the manufacturers for resale as such without securing a state or druggist license, and you refer to section 2 of chapter 104, laws of 1931.

Section 1 provides:

“Nothing in the act shall be construed so as to interfere \* \* \* with the distribution, keeping or handling of drugs, acids or poisons by merchants or corporations for use in their own business, when kept in the original, plainly labeled package.”

Section 2 reads:

“providing that nothing in this act shall be in any way construed to require a license for the sale of patent or proprietary medicines, fungicides, insecticides or germicides for agricultural or horticultural uses when sold in the original package or containers.”

Section 3181, R. C. M. 1921, relating to the compounding of drugs and the vending of drugs, likewise excepts from its operation the sale of patent or proprietary medicine in its original package, when plainly labeled, and also excepts such non-medicinal articles as are usually sold by merchants. Your question does not include “plainly labeled.” There is no other section preventing the sale of patent medicines.

Accordingly, you are advised that your question is answered in the affirmative, providing that such patent medicines and toilet articles are plainly labeled, and merchants may sell such articles without a license.

Very truly yours,  
L. A. FOOT,  
Attorney General.