

Opinion No. 166**Beer—Wholesalers—Distributors—
Licenses.**

HELD: A wholesaler clearly has the right to deliver beer and ship it to his consignee, thus permitting the wholesaler to deliver beer at points other than the residence or location of such wholesaler. But a wholesaler or brewer may not employ a distributor in another community for the purpose of distributing beer unless said distributor also shall have been granted a wholesaler's license. *

April 15, 1933.

You have requested my construction of portions of the Montana Beer Act, Chapter 106, Laws of 1933.

The questions which you ask in your letter are, as you have found them, difficult to answer from a reading of the bill. Very wide discretionary powers are given to the Board of Equalization and, as to some of the questions asked by you, it may be that they will be worked out and defined in rules to be promulgated by the commission. A wholesaler clearly has the right to deliver beer and can ship same to his consignee. That will permit the wholesaler to deliver beer at points other than the residence or location of such wholesaler.

You ask whether or not a wholesaler or a brewer can employ a distributor in another community for the purpose of distributing beer. Apparently the intent of the law is that if a wholesaler or a brewer desires to maintain an agency in a community other than the location of such brewer or wholesaler the distributor at such location other

than the location of the principal brewer or wholesaler shall also take out a wholesale license. There is no provision in the bill for a distributor or agent to engage in the sale and distribution of beer for a principal in a location other than the location of the principal and where such agent or distributor has not taken out a license of his own.

In interpreting the bill it is necessary to make such interpretation from the standpoint of the state and the general public rather than from the standpoint of rights of particular brewers, distributors for brewers, wholesalers or retailers. The rights of such individuals must be subordinate to the rights of the public.