

ing or storing beans as specified in Section 1 in said chapter, regardless of the federal laws, as the subject matter of regulating this business clearly comes within the police powers of the state.

"Second: There are warehouses which are renting space and not issuing warehouse receipts, but are still storing beans in this rented space. Will they come within the provisions of this law? They claim that so long as they rent space and do not issue certificates that they do not come within the law."

It is my opinion that all persons who are engaged in the business of warehousing or storing beans as set forth in Section 1 of said Act are required to pay the license fee, regardless of whether they provide storage space by rental, ownership or otherwise.

"Third: We understand that some of the bean houses which do not come within the provisions of the law sometimes rent this extra space and store beans in that manner. Would this be permissible or would we have authority to grant this right upon application?"

I see no reason why a warehouseman may not rent extra space for the storage of grain and no special authority therefor is necessary. However, as hereinbefore stated, this would not relieve such warehouseman from his responsibility for beans stored in this manner and he should issue warehouse receipt therefor.

"Fourth: Section 8 of this act provides that all beans accepted for storage shall first be graded according to the standards of the United States Department of Agriculture and the grade noted and specified upon the warehouse receipt. At the time of the bean harvest it will be physically impossible to comply with this as the beans must be cleaned before grading and it would probably be several days before a grade could be arrived at. Would it not be possible to issue a scale ticket in the form of an application for storage and provide that the date of storage should run from the date of the scale ticket, but actual storage ticket would not be issued until beans are graded, and then to be issued upon surrender of the scale ticket?"

Opinion No. 206

Warehouses—Bean Storage—License—Fees.

HELD: (1) That Chapter 55, Laws of 1933, applies to all persons engaged in warehousing and storage of beans regardless of federal laws. (2) The license fee is required from persons storing beans regardless of whether he rents space for this purpose, which he may do without authority if he chooses. (3) Scale ticket may be issued for interim between delivery and grading of beans, but bond of warehouseman should cover risk from issuance of scale ticket as storage begins then. (4) Where a public warehouseman is licensed, he may store beans without payment of license mentioned in Chapter 55, Laws of 1933, but is otherwise subject to all other requirements of the act.

May 10, 1933.

You submit certain questions pertaining to the storage of beans. Your questions and my opinion are submitted herewith:

"First: Will a warehouse storing beans and operating under the Federal laws come within the provisions of this act?"

It is my opinion that Chapter 55, Laws of 1933, applies to all persons engaged in the business of warehousing

In my opinion there is no objection to the issuing of scale tickets or temporary storage tickets pending the grading of the beans although the actual storage of the beans would date from the time the beans are delivered to the warehouseman.

“Fifth : Could a provision be put into the bond which would cover the storage of the beans between the date of the scale ticket and the time the regular storage ticket was issued?”

A provision could and should be put into the bond so that it would protect the owner of the beans stored from the date of the actual delivery of the beans until the regular storage ticket is issued.

It is my opinion that a public warehouseman operating under the warehouse laws of the state, engaged in storing beans, comes within the provisions of this act although he would not be required to pay an additional license fee. The license fee will apply to all persons engaged in the business of warehousing or storing beans “not already licensed under the public warehousing act.” This exception herein quoted is expressly set forth in Section 1 of the act. It is my opinion, however, that the act applies otherwise and that all warehousemen storing beans, would be required to comply with the provisions thereof, including the furnishing of such bond as the commissioner may fix.

(Note : See Chap. 164, Laws of 1935.)