

It is altogether clear that were the advertisement limited to the extent stated it would necessarily exclude from its scope all persons who refine their gasoline outside the state, and, as a consequence, deprive the state of the benefit of unrestricted competition. Moreover, and that should be the controlling factor, it would violate Chapter 66 in letter and spirit for the reason just given. (*State v. Toole*, 26 Mont. 22; 59 C. J. 177.)

Opinion No. 325

**State Purchasing Agent—Bids
—Gasoline.**

HELD: The State Purchasing Agent may not specify in advertising for bids on gasoline required by the State that such gasoline must be refined within the State.

August 31, 1933.

You request an opinion on the propriety of specifying, in advertising for bids on gasoline required by the state, that such gasoline must be refined within the state.

Chapter 66, Laws of 1923, provides that the state purchasing agent must advertise for bids before purchasing supplies and equipment for the use of the state and must award contracts for such supplies and equipment, except as otherwise therein set forth, to the lowest responsible bidder (sec. 3), and further provides that said state purchasing agent shall be absolutely fair and impartial in making awards or contracts, but that where both the bids and quality of goods offered are the same, preference shall be given to articles of local and domestic production and manufacture, and that where both the bids and the quality of goods offered are the same, preference shall be given to resident bidders of the State of Montana over non-resident bidders (Sec. 10).