

places of business in another state which purchase grain in this state.

2. The state may not regulate transactions in grain which are not completed within the state of Montana.

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December 26, 1934.

Mrs. Toilie Morris  
Chief, Division of Grain Standards  
and Marketing  
The Capitol

You have asked whether a person from Wyoming, who buys grain from people in Montana, would be required to obtain a license as required by the Grain Warehouse law, as amended by Chapter 35, Laws of 1933, and have suggested that perhaps a "trucker" would be classified as a grain dealer, track buyer or broker, as defined by Section 3574, R. C. M. 1921, as amended.

While a trucker may also be a grain dealer, track buyer or grain broker, as defined by the act, Section 3589, R. C. M. 1921, appears to provide for the licensing of **places within the State of Montana**. This section provides for the payment to the Commissioner of Agriculture of a license fee of Fifteen Dollars **"for each and every warehouse, elevator or other place, owned, conducted, or operated by such person or persons, firm, copartnership, corporation or association of persons, where grain is received, stored and shipped, and upon the payment of such fee of Fifteen Dollars for each and every warehouse, elevator or other place, where grain is merchandised within the State of Montana, the Commissioner of Agriculture shall issue to such person or persons, firm, co-partnership, corporation or association of persons, a license to engage in grain merchandising at the place designated within the State of Montana, for a period of one year."**

Aside from the fact that the act does not seem to be broad enough to cover grain dealers in other states, it is doubtful if such a license fee would be constitutional as it would likely be in violation of the commerce clause of the United States Constitution, by which Congress alone has the right to regulate interstate commerce. We do

**Opinion No. 14.**

**Grain Warehousemen—Grain Dealers  
—Interstate Commerce.**

**HELD:** 1. The Grain Warehouse Act is not broad enough to cover

not have the exact facts and therefore cannot definitely pass on this question but, in general, it may be said that a State is without power to exact license fees from agents engaged in interstate commerce or dealing in goods which are subjects of interstate commerce. (12 C. J. 105, section 145).

Assuming that the grain is not sold outright, but is merely hauled from Montana, and delivered to an elevator in Wyoming for storage, the transaction would appear to be interstate in character as it is not completed within the State of Montana (12 C. J. 26, section 25), and, therefore, not subject to regulation by the State of Montana.