

for 1935, to be paid for the 1936 license, would be accomplishing indirectly what may not be done directly, and this the law will not approve. In effect it amounts to this: The state returns the 1935 license fee. That the applicant thereupon uses it for the 1936 license does not have any bearing upon the refund, or make it legal.

Although this may seem like a harsh rule in some instances, yet on the principles laid down in the authorities cited in our opinion to you August 9, 1933 (Volume 15, Opinions of the Attorney General, p. 200), we are unable to reach any other conclusion.

Opinion No. 325.

**Licenses—Refunds—Fees—
Wholesalers.**

HELD: A wholesaler's license fee, paid and forfeited for failure to post a proper bond may not be applied as payment for a subsequent year's license for the reason that it would amount to a refund.

July 10, 1936.

Mr. George L. Knight
Chief, Division of Horticulture
Missoula, Montana

You have submitted the following:

"In August, 1933, you ruled that where a license fee was paid in good faith and applicant failed to furnish bond, that failure was entirely his fault and that no refund of license fee could be made. A new situation has now occurred. In 1935, Brown Brothers of Glasgow made application for license and paid the required fee then they were unable to furnish bond and therefore fee was not returnable. Now, however, they claim to be able to furnish bond and are asking that last year's fee be applied on this year's license.

"Will you kindly advise regarding this matter as promptly as possible?"

To permit the license money paid