

No. 196

**LICENSE OF MANUFACTURER OF SOFT DRINKS—  
DAIRIES—CREAMERIES—SOFT DRINKS**

**Held:** A dairy operating within the confines of any city or town within this state, which manufactures chocolate milk, orange drinks and any other light drinks put in bottles or other containers, is subject to the license tax provided in Section 2436, Revised Codes of Montana, 1935.

August 4, 1941.

Mr. John D. Stafford  
County Attorney  
Cascade County  
Great Falls, Montana

Attention: Mr. R. J. Nelson, Deputy

Dear Mr. Stafford:

You have requested our opinion whether or not dairies within the limits of the city of Great Falls which manufacture chocolate milk and an orange drink can be taxed under the provisions of Section 2436, Revised Codes of Montana, 1935. The section pertains to the licensing of manufacturers of non-intoxicating beverages in cities and towns.

Section 2436, Revised Codes of Montana, 1935, provides:

**“Section 2436. License of manufacturer of soft drinks.** Every manufacturer of non-intoxicating beverages, pop, soda waters, or other light drinks put up in bottles or other containers, in all cities having a population of ten thousand people or over, shall pay a license of sixty dollars semi-annually; in all cities or towns of more than five thousand and less than ten thousand population, shall pay a license of forty dollars semi-annually; and in all cities or towns with a population of less than five thousand shall pay a license of twenty-five dollars semi-annually.”

The question raised by your inquiry was gone into rather thoroughly in Opinion No. 86, Volume 16, page 82, wherein it was held a creamery which prepares soft drinks—such as orangeade or other orange drinks—is a manufacturer under Section 2436, Revised Codes of Montana, 1935.

In the above-named opinion we concur and therefore hold a dairy operating within the confines of any city or town within this state which

manufactures chocolate milk, orange drinks and any other light drinks put up in bottles or other containers is subject to the license tax provided in Section 2436, Revised Codes of Montana, 1935.

Sincerely yours,

JOHN W. BONNER  
Attorney General