

No. 248

**LICENSES—BONDS—BEANS, Licenses for Selling, etc.**

**Held:** A person buying beans and paying cash therefor upon delivery must procure a license as provided by Section 3592.57, Revised Codes of Montana, 1935, but is not required to furnish a bond under Section 3592.59, Revised Codes of Montana, 1935.

September 19, 1941.

Mr. Albert H. Kruse  
Commissioner of Agriculture  
State Capitol  
Helena, Montana

Dear Mr. Kruse:

You have requested my opinion on the following question:

Is anyone buying beans and paying cash upon delivery, but not accepting them for storage required to furnish a bond to the Department of Agriculture, when applying for a license?

Section 3592.57, Revised Codes of Montana, 1935, provides:

“All persons engaged in the business of buying, and selling at wholesale or warehousing and storing beans, or receiving or soliciting beans for purchase, sale, or storage either within or without the State of Montana shall, before engaging in such business, procure a license from the commissioner and shall pay a license fee . . .”

Section 3592.59, Revised Codes of Montana, 1935, provides:

“Every person applying for a license to engage in such business of buying, selling, warehousing or storing beans in accordance with

this act shall, as a condition precedent to the granting thereof, execute and file with the commissioner a good and sufficient surety bond in the sum of five thousand dollars (\$5,000.00) to the State of Montana . . . conditioned upon the faithful performance of his obligations as a bean dealer or warehouseman under the laws of this state and as prescribed in this act, and of such additional obligations as may be assumed by him under contract with the respective depository of the beans with him . . .”

Section 3592.55, Revised Codes of Montana, 1935, defines certain terms and words used in the act, and, as applicable here, we quote the following:

“(d) The words ‘storage’ or ‘warehousing’ shall mean any method by which beans are held for any party, other than **direct ownership**, by the party doing the storing.”

It is clear, from the provisions of Section 3592.57, *supra*, any person engaged in the business of “buying and selling at wholesale, or receiving or soliciting beans for purchase or sale,” must secure a license. It is likewise clear, from the definition of the words “storage” and “warehousing” in Section 3592.55, one purchasing beans and paying cash therefor is not, under the act, storing or warehousing beans, for the definition quoted excepts therefrom “direct ownership.”

One purchasing beans for cash and selling the same at wholesale or retail must procure a license, as provided by Section 3592.37, *supra*, but having direct ownership of the beans so purchased, he can have no obligation to others. The purpose of the bond required by Section 3592.59, *supra*, is to protect those persons storing beans. There being no obligation to third persons by one having direct ownership, there would seem to be no necessity for a bond.

It is therefore my opinion one buying beans and paying cash therefor upon delivery, although required to procure a license, is not required to furnish a bond under Section 3592.59, Revised Codes of Montana, 1935.

Sincerely yours,

JOHN W. BONNER  
Attorney General