

Opinion No. 114.

Drug Store—Advertisement of Drug Store.

Held: There is no violation of Section 11, Chapter 175, Laws of 1939, where the word "drugs" or similar name does not appear in advertised name of store, but words "drugs" is used in advertising wares sold in a particular department.

August 26, 1943.

Mr. Emil Schoenholzer
Secretary
Montana State Board of Pharmacy
Billings, Montana

Dear Mr. Schoenholzer:

You have submitted a copy of a department store advertisement, and particularly directed my attention to a portion thereof, headed "DRUGS" and listing thereunder certain items, including bath soap, chrome hand mirrors, perfume sets and army duffle bags. You also advise this particular store pays the \$3.00 license, which permits it to sell ordinary household or medicinal drugs prepared in sealed packages or bottles by a manufacturer, qualified under the laws of the state wherein such manufacturer resides, and as provided by Section 8, Chapter 175, Laws of 1939.

My opinion is requested whether the use of the word "drugs," in the advertisement, violates Section 11 of the chapter referred to above.

Section 11 provides:

"It shall be unlawful for any person to carry on, conduct or transact a retail business under a name which contains as a part thereof, the words, 'drugs,' 'drug store,' 'pharmacy,' 'medicine,' 'apothecary,' or 'chemist shop,' or any abbreviations, translations, extension or variation thereof; or in any manner by advertisement circular or poster, sign or otherwise, describe or refer to the place of business conducted by such person by such term, abbreviations, translation, extension or variation unless the place so conducted is a pharmacy within the meaning of this act, and duly licensed as such and in charge of a registered pharmacist."

It is seen the section is directed to carrying on a business under a name containing as a part thereof, the word "drugs" or "drug store" and so on, or in any manner by advertisement to describe or refer to the place of business by any such term.

The advertisement submitted by you contains the name of the department store, and the name does not contain any of the prohibited words. The only use of a prohibited word is in indicating a certain department of the store, in which the listed articles are kept for sale.

In view of the fact the word "drug" or other prohibited word does not appear in the advertised name of the

store, I am of the opinion there is no violation of the section in question.

Sincerely yours,
R. V. BOTTOMLY
Attorney General