

the cleaning plant are the property of another and come into the hands of the cleaning plant for cleaning and delivery to the owner.

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 3592.55, Revised Codes of Montana, 1935, provides definitions of certain terms used in the statutes relating to bean dealers, and, as pertinent here, subparagraph (d) of that section provides:

"(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."

Under the facts given, the beans handled by the operator of the cleaning plant are not the property of such operator, but of another, and are held, even though for only a short time, for cleaning and delivery to the owner. There is an obligation therefor on the part of the operator to a third person; that is, he is obligated to deliver the beans when cleaned. It would therefore seem such operator must procure a license and also furnish a bond. The broker who is engaged in buying beans, of course, must procure a license, but need not furnish a bond. (See Opinion No. 248, Vol. 19, supra.)

It is therefore my opinion any person receiving beans, the property of another, for the purpose of cleaning and delivery to the owner, must procure a license and furnish a bond. A broker who buys beans in this state must procure a license, but is not required to furnish bond.

Sincerely yours,
R. V. BOTTOMLY
Attorney General

Opinion No. 88.

Licenses—Bonds—Beans, Cleaning plant to furnish.

Held: Any person receiving beans, the property of another, for the purpose of cleaning and delivery to the owner, must procure a license and furnish a bond. A broker who buys beans in this state must procure a license, but is not required to furnish bond.

July 10, 1943.

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

Dear Mr. Kruse:

You have requested my opinion relative to whether a license and bond, either or both, are required of one who operates a bean cleaning plant. The facts in this particular instance are expressed in the inquiry as follows:

"We are not buying beans this year nor storing for any producers. We are, however, operating our bean cleaning plant for the use of a Denver broker, who has a representative in the field buying for his account, the beans being brought to us for cleaning and immediate forwarding to the Denver broker."

"As we understand the purpose of the bond which heretofore we have furnished, was for the protection of anybody who might have stored beans with us."

This office has held, in Opinion No. 248, Volume 19, Report and Official Opinions of Attorney General, a person buying beans and paying cash therefor upon delivery must procure a license, but is not required to furnish a bond. The purpose of the bond is for the protection of the owners of the beans who store them with the warehouseman. However, the facts presented above disclose the beans handled by