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CORPORATION WHOLESALE PERMITTEE WHOSE STOCK IS OWNED BY RETAIL GROCERY MERCHANTS CANNOT SELL LEGALLY TO MERCHANT PERMITTEE FOR RESALE IN ORIGINAL PACKAGE OR FOR CONSUMPTION ON PREMISES AND THE CORPORATION WHOLESALE PERMITTEE IS VIOLATING THE LAW IN SO SELLING TO THE MERCHANT RETAIL GROCERS WHO OWN THE WHOLESALE CORPORATION.

April 17, 1933

FILED

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Mrs. Hazel Campbell  
Deputy Food & Drug Commissioner  
2623 Lockridge Avenue  
Kansas City, Missouri

Dear Madam:

You have submitted to me the following state of facts and ask whether there is any violation of the statute regulating sale of 3.2 percent beer in Missouri approved March 15, 1933:

"An association of retail grocery merchants form a corporation to conduct a wholesale grocery business to enable the members of the associated grocers to buy more cheaply from manufacturers and producers by combining their united buying power in the wholesale grocery corporation. The wholesale grocery corporation stock is all owned by the retail grocers to whom the wholesale corporation sells the principal part of the goods it handles. The wholesale corporation also sells some goods to others than its stockholders."

The wholesale corporation has a wholesale or distribution permit to distribute 3.2 percent beer under the Missouri statute and the retail grocers have either permits to sell for consumption on the premises or in the original package not for resale. The wholesale corporation sells 3.2 percent beer to the merchant grocers, stockholders of the wholesale company.

Section 13139H, lines 13 to 18, of the statute, legalizing sale in Missouri of 3.2 percent beer, reads as follows:

"and provided further, no manufacturer or distributor, to whom, or to which, this act applies, shall have any interest, directly or indirectly, in the business of any person, firm, company, or corporation, applying for, securing, or holding, a permit under either sub-paragraph "c" or sub-paragraph "d" of Section 13139e of this Act."

Under the above quoted section of the statute it is my opinion the wholesale corporation is violating the law. The retail grocers really constitute the wholesale grocery corporation.

The wholesale corporation was organized to aid the retail grocers in their grocer business. The retail grocers could not under the statute above quoted hold both a wholesale and a retail permit and the retail grocers cannot legally do indirectly through a corporation they own and operate what they cannot do directly.

Very respectfully,

EDWARD G. CROW

APPROVED:

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Attorney-General

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