

Law 33 HB23 April 1933 P 509
Corporation permittee for sale for consumption on premises having an affiliate corporation used as adjunct to first named corporation and controlled by same interests as control first named corporation, cannot under wholesaler's permit sell to the affiliate corporation 3.2 per cent beer in original package for resale by latter corporation under permit as merchant to sell in original package.

April 15, 1933.



Hon. E.W. Allison,
Prosecuting Attorney - Phelps Co.,
Rolla, Missouri.

Dear Mr. Allison:

Your letter reads as follows:

"I write to ask your opinion concerning the recently passed beer law, but will have to state to you the facts on which to predicate my question as follows:

The Rolla Wholesale Grocery Company is a corporation organized under the laws of Missouri and doing business at Rolla, as is also the Ozark Supply Company. The Rolla Wholesale Grocery Company, as the name implies, deals in groceries at wholesale.

The Ozark Supply Company deals in fuel oil, fuel of all kinds, and maintains a bottling works and sells and distributes carbonated beverages at retail and wholesale.

The Rolla Wholesale Grocery Company has procured a permit as a distributor of beer. It happens that some of the directors and stockholders of the Rolla Wholesale Grocery Company are also directors and stockholders in the Ozark Supply Company, but as above stated, the two companies are separate and distinct corporate units and operate at different locations in the city.

Now the question is, since the Rolla Wholesale Grocery Company holds a permit from the State and Federal government for the distribution of beer, would they be permitted to sell the Ozark Supply Company for resale in the original package, providing the Ozark Supply Company holds permits for that purpose, in view of the latter part of Section 13139H, Senate Bill No. 26, passed by the 57th General Assembly and recently approved by the Governor?

I might add one further fact, to-wit: That the Rolla Wholesale Grocery Company as a corporation does not own or hold any stock or interest in the Ozark Supply Company, nor does the Ozark Supply Company as a corporation own or hold any stock or interest in the Rolla Wholesale Grocery Company. The sole and only interlocking interest is that

certain business men happen to be directors and stockholders in both corporations."

Section 13139H 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. "

The only authority for selling in original package to consumers direct is a permit authorizing sale as a grocer or merchant. Therefore, although you do not say, I assume the affiliate corporation has a permit to sell 3.2 per cent beer as a grocer or merchant. Your letter states that the Rolla Wholesale Grocer Co. has a wholesaler's permit.

I assume from your letter the Ozark Supply Company is used as an adjunct to the Wholesale Grocer Co. and that while the wholesale grocer company as a corporate entity does not own any of the stock of the Ozark Supply Company, yet the same people control and operate both corporations; and under these conditions it is my opinion the provisions of the Act legalizing the sale of 3.2 per cent beer hereinabove quoted, prohibiting a holder of a wholesaler's permit to sell 3.2 per cent beer from being directly or indirectly interested in the business of any corporation applying for or holding a permit to sell said beer for consumption on the premises where sold, or selling same as a merchant, would make illegal the sale of beer by the Rolla Wholesale Grocer Co. to the Ozark Supply Co.

Very respectfully yours,

EDWARD C. CROW.

APPROVED:

Attorney General

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