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authorized by said government or department thereof having control of said reservations.”

In this opinion this section was construed to mean “that the Commission may within its discretion authorize the sale and delivery to an officer or person on a military reservation or other reservation within the State which is under the authority of the United States government or any department thereof, provided that same is legally authorized by said government or department thereof having control of said reservation.” In my opinion this same privilege is granted to a wine wholesaler. Aside from that it is my express opinion that a wine wholesaler cannot sell and ship wine outside of the State of Indiana.

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### OFFICIAL OPINION NO. 44

August 10, 1950.

Honorable Thomas R. Hutson,  
Division of Labor,  
225 State Capitol Building,  
Indianapolis, Indiana.

Dear Sir:

I have your letter of July 19, 1950, which reads as follows:

“There are in operation in the northern part of the state, numerous high pressure boilers used in distilling of mint. These boilers are located on the farms and are used in connection with the products of farming. The boilers operate at relatively high pressure, approximately 100 P. S. I. The Indiana Law, Section 4d exempts boilers used wholly for agriculture from inspection by the state department.

“Our problem is this, would these boilers be classed as agriculture boilers where the products are sold for commercial use and used in processing various products that are for mint flavors?

“An official opinion from your office would be of utmost important to me in making inspections relative

to the safety of these units for the protection of life and property.”

The statute upon which your question is predicated states:

“(a) It shall be the duty of the deputy inspector of the department of boilers to inspect or cause to be inspected internally, at least once every six (6) months, all steam boilers, tanks, jacket kettles, generators and other apparatus used for generating or transmitting steam for power, or for using steam under pressure for heating or steaming purposes, and all other tanks or jacket kettles and reservoirs under pressure, of whatsoever kind.

“(b) Boilers used less than six (6) consecutive months in each year, and boilers used solely for heating purposes and carrying less than twenty-five (25) pounds pressure shall be inspected internally, at least once a year.

“(c) The pressure allowed on a boiler constructed wholly of cast iron shall not exceed twenty-five (25) pounds pressure per square inch.

“(d) The provisions of this act shall not apply to boilers of railway locomotives, boilers used solely for agricultural purposes, boilers under the jurisdiction of the United States government, heating boilers in private residence, and fire engine boilers brought into the state for temporary use in times of emergency.” Acts 1915, Ch. 111, Sec. 4, Page 458, Sec. 20-604, Burns Indiana Statutes, 1950 Repl.

We need not speculate upon the intention of the act, (*supra*) for it is clear boilers used for agriculture purposes are exempt from its provisions.

“Agriculture” as defined in Section 3 (f) of the Fair Labor Standard Act:

“includes farming in all its branches and among other things includes the cultivation and tillage of the soil, dairying, the production, cultivation, growing, and harvesting of any agricultural or horticultural com-

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modities, \* \* \* the raising of livestock, bees, furbearing animals, or poultry, and any practices (including any forestry or lumbering operations) performed by a farmer or on a farm as an incident to or in conjunction with such farming operations, including preparation for market, delivery to storage or to market or to carriers for transportation to market.

“As can be readily seen this definition has two distinct branches. First there is the primary meaning. Agriculture includes farming in all its branches. Certain specific practices such as cultivation and tillage of the soil, dairying, etc., are listed as being included in this primary meaning. Second, there is the broader meaning.

“Agriculture is defined to include things other than farming as so illustrated. It includes any practices, \* \* \* which are performed either by a farmer or on a farm, incidently to or in conjunction with ‘such’ farming operations.” *Farmers Reservoir & Irrigation Co. v. McComb*, 69 U. S. Sup. Ct. 1274 at page 1278.

“Agriculture, as an occupation, includes more than the elemental process of planting, growing and harvesting crops. There are a host of incidental activities which are necessary to that process. Whether a particular type of activity is agricultural depends, in large measure, upon the way in which that activity is organized in a particular society. The determination cannot be made in the abstract. In less advanced societies the agricultural function includes many types of activity which, in others, are not agricultural. \* \* \* Thus, the question as to whether a particular type of activity is agricultural is not determined by the necessity of the activity to agriculture nor by the physical similarity of the activity to that done by farms in other situations. The question is whether the activity in the particular case is carried on as part of the agricultural function or is separately organized as an independent productive activity. \* \* \*” *Farmers Reservoir Irrigation Co. v. McComb*, *supra*, at page 1277.

“Purpose” as defined by Webster’s New International Dictionary, Second Edition, means: “that which one sets before himself as an object to be attained, the end or aim.”

Mint is an aromatic plant, produced from the soil and is recognized in this state as being a farm commodity.

In our determination of this question, we have been unable to find any jurisdiction in which this exact question has been determined. However, from the research made regarding your query and applying the court’s thinking that “any practices, whether or not themselves farming practices, which are performed by a farmer on a farm, incidental to or in conjunction with such farming operation is agriculture,” we must conclude that boilers used by a farmer on his farm for the distillation of “mint” produced by him are exempt from inspection.

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OFFICIAL OPINION NO. 45

August 11, 1950.

Mr. Edwin Steers, Sr.,  
Member of State Election Board,  
108 E. Washington Building,  
Indianapolis, Indiana.

Dear Sir:

I have your request of recent date, requesting an Official Opinion which reads as follows:

“Section 29-5803 of Burns Revised Statutes, 1949 Replacement provides among other things as follows:

“The Board of Commissioners of every county in this state in which is located a city having a population of thirty-six thousand (36,000) or more, according to the last preceding United States census, shall, and the Board of Commissioners of all other counties in this state may, on the requisition of the County Election Board adopt and purchase or procure for use in the various precincts of the county, any voting machine approved in the manner set forth in this