officers of a corporation or association registered as a dealer shall not be required to register as agents under the provisions of this section."

Note the language in the above quotation: "or sell any securities including securities exempted in Sec. 4."

These specific provisions of the statute leave no room for doubt as to the necessity of registering issuers selling exempt securities as dealers.

My answer to your question is accordingly in the affirmative.

ALCOHOLIC BEVERAGES COMMISSION: Whether a truck parked over night from which no deliveries are made while so parked can be held to be a warehouse storage or not; whether the Commission has the power to make it so by rule and regulation.

November 4, 1941.

Mr. Ted O. Hays, Attorney,
Alcoholic Beverages Commission,
State House,
Indianapolis, Indiana.

Dear Sir:

Your letter of November 3, 1941, asks the following questions:

"1. We would like to know whether a brewery which loads a truck full of beer in Indianapolis, Indiana, and drives same truck to Evansville, Indiana, parks same partially filled with beer in an open lot in that town overnight, and driver taking same on from that town the next morning and continuing to deliver beer without returning to the brewery, is violating the above Section of our Statute.

"2. Second, if the above set of facts are found not to be of violation of the Section, then, the Commission would like to know if they have the power to pass a regulation on this subject that would stop this practice.

"3. The Commission would, also, like to have an opinion, if in your judgment the practice above set out could be considered as a violation of Sub-section R of
the same Section, same being found at page 160 of the Commission's pamphlet, which is called the 'No Huckstering Section.'"

This involves an interpretation of Section 40, sub-section I, page 157 of the Alcoholic Beverages Act (Burns' Indiana Statutes Annotated 1933, Supplement of 1941, Section 12-909) which reads as follows:

"No holder of a brewery permit, or of a beer wholesaler's permit, or of a liquor wholesaler's permit, or of a beer retailer's permit, or of a liquor retailer's permit, shall own, operate, or maintain on his own account or patronize, or use, or employ any warehouse, storage or depot, owned or operated by any other person for the storage or keeping of alcoholic beverages except at the plant or premises with respect to which specifically any of said permits were granted."

I am of the opinion that the law does not prohibit parking a partially filled brewery's truck overnight in a city some distance from the brewery and continuing on subsequent days to make deliveries to permittees before returning to the brewery.

Webster's Dictionary defines "warehouse" as "any structure used to hold goods, stores or wares temporarily or for a length of time."

"Depot" means "the place where a carrier is accustomed to receive merchandise, deposit it and keep it ready for transportation and delivery."


"Storage" implies a "place of storage" and does not include the premises of another where merchandise is held preparatory to shipment under a Michigan statute concerning a person having control who "hires or occupies a store, mill, or place for the sale of property, shop, office, mine, storage, manufactory, or warehouse therein, for use in connection with such goods and chattels."

Osterhout v. Jones, 19 N. W. 964 (Mich.)

The City of Indianapolis passed an ordinance providing that "any structure or enclosure within said city used by any
person, firm or corporation for the receipt and storage of liquors brewed by any brewery without said city and shipped to said city for sale or distribution to wholesale or retail dealers in such liquors, shall be considered depot or brewery under the provisions of this ordinance, whether such deposit or storage be made by the owner of said brewery or the agent of such owner, or by a purchaser from said brewery handling said liquors on his own account." This ordinance was enacted pursuant to a city charter's provision "to tax, license and regulate distillers and brewers and the depots or agents established in said city of all brewers and distillers," held that the license provision was valid and a conviction was affirmed. Schmidt v. City of Indianapolis (1907), 168 Ind. 631.

Hence, we do not believe that a truck parked overnight, from which no deliveries are made while so parked, can be held to be a warehouse, storage or depot.

I am of the opinion that under the provisions of the Act, pursuant to powers expressed in Section 6 of the pamphlet (Burns' Indiana Statutes Annotated 1933, Supplement of 1941, Section 12-402 (3) (17), it is within the power of the Commission, pursuant to a finding prescribed in such section, to prescribe a rule or regulation that would stop this practice.

I do not think that the facts set forth constitute any violation of Section 41, sub-section (R), page 160, of the pamphlet (Burns' Indiana Statutes Annotated 1933, Supplement of 1941, Section 12-918) prohibiting sales to non-permittees.

EMBALMERS' BOARD: Whether a new branch establishment is required to have a licensed funeral director in charge.

November 7, 1941.

Mr. Luther J. Shirley,
Secretary, Board of Embalmers and Funeral Directors,
946 North Illinois Street,
Indianapolis, Indiana.

Dear Mr. Shirley:

This will acknowledge your request of November 5, 1941, for an official opinion concerning the following questions: