

WEIGHTS AND MEASURES: Legality of Jewell Ridge Coal Corporation of Virginia selling coal in Indiana as "Pocahontas coal."

March 29, 1933.

Hon. Martin L. Lang,
Commissioner of Weights and Measures,
Indianapolis, Indiana.

Dear Sir:

I have before me your letter of March 27, 1933, in which you request my opinion as to the legality of the Jewell Ridge Coal Corporation of Tazewell, Virginia, selling coal in Indiana as "Pocahontas coal." I gather from your letter that although you are satisfied from the showing made by the company, that they are in fact mining and selling "Pocahontas coal," you hesitate to authorize the advertising and sale of the same as such in view of the decision of the United States District Court rendered by Judge Baltzell in the case of the American Coal Company et al., No. 1218 in Equity.

In my opinion, the decision in that case did not involve the rights of the Jewell Ridge Coal Corporation, inasmuch as it was not a party to that proceeding and could not be bound by the judgment in that case. It is my opinion, therefore, that if you are satisfied as an administrative officer of state, that the Jewell Ridge Coal Corporation should be entitled to advertise and sell its product as "Pocahontas coal," you may so authorize its sale without in any way violating the provisions of the decree of the District Court of the United States above referred to.

EMBALMERS, STATE BOARD OF: Whether it is legal for person having applied for a license to remove from his residence to another residence within the state.

March 30, 1933.

J. U. Maynard, Secretary-Treasurer,
Indiana State Board of Embalmers
and Funeral Directors,
Winchester, Indiana.

Dear Sir:

I have before me your request for an official opinion as follows:

"I am enclosing for your opinion an application for license of funeral directors applied for by Dahl Stricler of Marion, Grant county, Indiana. Before this man started in business, he removed his family and belongings to Warsaw and started in business. Our board is at a loss to know if this is legal or not. It is imperative that we have this opinion at once and would appreciate a reply. Kindly return to me this application for license of funeral directors."

It is not legal for any person or corporation to hold himself or itself out to the public as practicing the profession of a funeral director without first having obtained a license as provided in chapter 92 of the Acts of 1931.

However, there is no provision in the act which prohibits a person having applied for a license from removing from his residence at the time of the application to another residence within the state and, in my opinion, such removal would not invalidate his application.

I return herewith the application enclosed with your letter.

AUDITOR OF STATE: Gasoline tax—no exemption merely because of large quantities purchased for re-sale to retailers in Illinois and Indiana.

April 1, 1933.

Hon. Floyd E. Williamson,
Auditor of State,
Indianapolis, Indiana.

Dear Sir:

I have your letter dated March 31, 1933, asking for an opinion as to whether J. J. Brehm, Inc., and J. J. Brehm & Sons' Company, of Hammond, Indiana, may be classed as producers, blenders and refiners for the purpose of exempting them from payment of gasoline tax on gasoline and motor vehicle fuels stored in their bulk plant in Hammond, Indiana, for re-sale to retailers in Illinois and Indiana, a copy of a letter to Mr. Fred G. Six, field auditor, from the Bartles-Maguire Oil Company, dated March 28, 1933, being attached to your request.

In response thereto, I would call your attention to the statements in the last named letter to Mr. Six that these concerns