AUDITOR, OFFICE OF: Certificate of use properly signed by purchaser—Dealers may not sign. 

January 7, 1936.

Hon. Laurence F. Sullivan,
Auditor of State,
State House,
Indianapolis, Indiana.

Dear Sir:

I acknowledge receipt of your request for an official opinion of January 6, 1936, as follows:

"Your opinion is respectfully requested regarding the validity of 'Certificates of Use' signed by other than the purchaser of all motor vehicle fuel products, excepting gasoline.

"The question arises because many of the bonded and licensed dealers of motor vehicle fuel, in Indiana, are under the impression that a 'Certificate of Use' signed by any person is sufficient to file in lieu of the tax, and have been sending out thousands of gallons of other than gasoline products, signing 'Certificates of Use' themselves, or accepting the signature of a truck driver on the certificates."

Section 3(a) of Chapter 159 of the Acts of the Indiana General Assembly for the year 1933, provides in part as follows:

"On all motor vehicle fuels other than gasoline, the dealer may sell the same free from the license fee herein imposed: Provided, That such dealer at time of delivery to the purchaser pursuant to such sale, obtains a certificate in writing from the purchaser, wherein the purchaser shall certify the date and place of delivery, from whom purchased, character of product purchased, amount purchased, use to be made of product purchased, and a positive statement that no part of such motor vehicle fuel described in said certificate is to be used in whole or in part for the propulsion of a motor vehicle upon the highways of Indiana, and such other information as the state audi-
tor may deem necessary. Such certificate so obtained by the dealer when properly executed, shall be accepted by the State of Indiana in lieu of the license fee otherwise due upon the sale of the products mentioned in such certificate, and provided such original certificate so obtained shall be filed with the state auditor with the report of the dealer covering sales for the period during which such certificates were obtained.” (Our italics.)

It will be seen that the language of the statute requires that the “purchaser” sign the certificate and that no provision is made for the signing by another.

It is therefore my opinion that such certificates signed by persons other than the “purchaser” are not valid and should not be accepted in lieu of the license fee otherwise imposed.

ALCOHOLIC BEVERAGES DIVISION: Transfer of permits from one locality to another.

January 8, 1936.

Hon. R. H. Wyman, Chief Clerk,
Alcoholic Beverages Division,
State House,
Indianapolis, Indiana.

Dear Sir:

I acknowledge receipt of your request for an official opinion as follows:

"Please be advised that this Department would like an official ruling regarding a provision of the Alcoholic Beverage Act of 1935 that a person may transfer his permit from one location to another, but which does not specifically limit such transfer to the same municipality.

"Inasmuch as Section 40 provides under subsection (f) for the distribution of two-thirds of all retailer's license fees to the corporation in which the establishment is located, this would conflict with the transfer from one municipality to another. Therefore we would like an official ruling concerning this matter."