

dennity Company appears as surety, sufficient to cover the amount of the contract.

You have further submitted evidence indicating that plans were properly prepared and approved, notice to bidders was properly given, bids tabulated as required by law and the contract duly awarded. Also it appears that the laws relating to the status of surety companies and the workmen's compensation have been complied with.

Finding said contract and bond in proper legal form, I have this day noted my approval thereon and return the same herewith to you, together with all other data submitted in this connection.

Respectfully,
GILBERT BETTMAN,
Attorney General.

2584.

APPROVAL, BONDS OF SHAKER HEIGHTS VILLAGE SCHOOL DISTRICT, CUYAHOGA COUNTY, OHIO—\$175,000.00.

COLUMBUS, OHIO, November 25, 1930.

Retirement Board, State Teachers Retirement System, Columbus, Ohio.

2585.

APPROVAL, BONDS OF CAMBRIDGE CITY SCHOOL DISTRICT, GUERNSEY COUNTY, OHIO—\$10,000.00.

COLUMBUS, OHIO, November 25, 1930.

Retirement Board, State Teachers Retirement System, Columbus, Ohio.

2586.

SALE OF ALCOHOL—SYNTHETIC METHYL ALCOHOL MAY BE SOLD ONLY BY A REGISTERED PHARMACIST—EXCEPTION.

SYLLABUS:

1. *Synthetic methyl alcohol may be sold in Ohio only by a registered pharmacist and not under the exceptions provided in Sections 12708-1,-2,-3 and -4, General Code.*

2. *Methyl alcohol or wood alcohol may be sold under the provisions of these sections only when labeled "wood alcohol," as provided therein.*

COLUMBUS, OHIO, November 25, 1930.

State Board of Pharmacy, Columbus, Ohio.

GENTLEMEN:—Your letter of recent date is as follows:

"Sections 12708-2, 12708-3 and 12708-4 of the General Code of Ohio,

have to do with the distribution of completely denatured alcohol and wood alcohol in the state. The question is, has any distributor the legal right to distribute within the state Methyl Alcohol, when labeled "Methyl Alcohol," providing all the other requirements as to labeling and registering as a poison are complied with, as in the case of completely denatured alcohol or wood alcohol. It being understood, however, that methyl alcohol is the same as wood alcohol.

We would also like your opinion as to whether a distributor may use the words "Synthetic Methyl Alcohol" upon labels or as a sign of distribution. Synthetic Methyl Alcohol would not be classed as Methyl Alcohol.

The opinion is requested for the purpose of determining whether or not dealers, other than registered pharmacists, may legally distribute such poisons."

Under the provisions of Section 12705, General Code, any place of business where poisons are offered or displayed for sale must be conducted by a legally registered pharmacist. Section 12706, General Code, provides a penalty for selling a poison by other than a legally registered pharmacist. Sections 12707 to 12708-4, General Code, inclusive, contain exceptions to these provisions. Sections 12708-1,-2 and 3, General Code, are pertinent to your inquiry, and provide as follows:

Section 12708-1:

"Sections 12705 and 12706 of the General Code shall not apply to, interfere with or prohibit any person, firm or corporation from selling completely denatured alcohol or wood alcohol."

Section 12708-2:

"Whoever shall have in his possession, or dispenses or sells packages or containers of completely denatured alcohol or wood alcohol containing five wine gallons or more without having marked or stenciled thereon the name and address of the seller, the degree of proof of such alcohol, the formula number, and, in letters of not less than one inch in height, the words 'Completely Denatured Alcohol' or 'Wood Alcohol,' as the case may be, and the names of two or more antidotes for the same, shall be fined not less than ten dollars nor more than fifty dollars. The provisions of this section, the next succeeding section and Section 12667 of the General Code shall not interfere with the transfer of such alcohol from storage tanks to other packages or containers, nor require the placing of such mark or stencil upon transportation tanks, nor the registration or placing of mark or stencil upon fuel tanks, automobile radiators or similar containers for the final use or consumption of such alcohol and from which no further distribution thereof is made."

Section 12708-3:

"Whoever dispenses or sells completely denatured alcohol or wood alcohol in packages containing less than five wine gallons without having affixed thereto a label on which is printed or stenciled in plain, legible, red letters of equal prominence on a white background the words, 'Completely denatured Alcohol' or 'Wood Alcohol,' as the case may be, and in addition on the same label in red ink, under the skull and crossbones symbol, the word 'POISON' together with the following statement: 'Completely denatured alcohol, or wood alcohol is a violent poison. It cannot be applied externally to human or animal tissue without serious injurious results. It cannot be taken internally without inducing blindness and general physical decay ultimately resulting in death,' and without having stamped, stenciled or printed

upon such label the name and address of the seller, the degree of proof, and the formula number thereof, shall be fined not less than ten dollars nor more than fifty dollars. Neither the word 'pure' nor the single word 'alcohol' alone shall appear on any label of completely denatured alcohol or wood alcohol."

Considering first your inquiry as to whether or not synthetic methyl alcohol may be said to be within the exceptions of Sections 12708-1,-2 and -3, supra, I am advised that this substance in its toxic qualities is identical with wood alcohol, that it is a virulent poison and has the same effect upon the human system as methyl alcohol, commonly known as "wood alcohol." I am further advised that it differs from wood alcohol in that it is colorless and odorless. It is obvious that because of these last two characteristics, it is, of course, far more dangerous than wood alcohol. If synthetic methyl alcohol may be said to be within the foregoing exceptions to the general law, relative to the sale of poisons, it would be necessary to conclude that the statutory term "wood alcohol" embraces synthetic methyl alcohol. Considering the obvious purpose of the legislation here under consideration, I have little difficulty in concluding that the Legislature has, in the enactment of Sections 12708-1,-2 and -3, made no reference to synthetic methyl alcohol. An applicable rule of statutory construction was laid down in the early case of *Denbow vs. The State of Ohio*, 18 Ohio 11, 12, wherein the court said:

"When any article of property is referred to in a penal statute as the subject of an offense, only such property as is usually designated by such term can be supposed to be embraced in its provisions.

When things of the same kind have different names, arising from difference in size, number, age, situation, or any other circumstance, only such as are expressly mentioned by the terms generally appropriated to them, can be held to have been contemplated by the Legislature."

Considering next your inquiry as to whether or not methyl alcohol may be sold under the exceptions provided in Section 12708-1, et seq., supra, when labeled "methyl alcohol" instead of "wood alcohol," it must be borne in mind that although methyl alcohol is the chemical name for wood alcohol, the term "wood alcohol" is more commonly used and understood. The statute is in my opinion particularly clear in providing that methyl alcohol must be labeled in letters not less than one inch in height "wood alcohol." The obvious purpose of this law is to advise the layman, who perhaps knows nothing of chemical terms, in generally understood language, that he is purchasing a substance which he knows is a poison. There may be many persons who might confuse the term "Methyl Alcohol" with the term "Ethyl Alcohol," which latter substance is non-poisonous.

It is, accordingly, my opinion in specific answer to your inquiries that:

1. Synthetic methyl alcohol may be sold in Ohio only by a registered pharmacist and not under the exceptions provided in Sections 12708-1,-2,-3 and -4, General Code.
2. Methyl alcohol or wood alcohol may be sold under the provisions of these sections only when labeled "wood alcohol," as provided therein.

Respectfully,

GILBERT BETTMAN,
Attorney General.