

## Opinion No. 33-627

July 13, 1933

**BY:** E. K. NEUMANN, Attorney General

**TO:** Gasoline Tax Department, Santa Fe, New Mexico. Attn: Mr. Ramon Gonzales

{\*67} I have your letter of July 8, 1933. The question presented is whether, under a correct interpretation of Chapter 176, Laws of 1933, the State Comptroller may in any case omit the requirement of filing a distributors' bond.

Section 3 of Chapter 176, among other things, provides that, upon filing an application for a license, every distributor must concurrently therewith file a bond or bonds of the character and amount stated in Section 4. And further provides that no license shall issue upon any application "to any distributor unless accompanied by such a bond or bonds."

Section 4 of said Chapter, in the beginning, plainly requires "every distributor" to file a bond. The only question which has arisen to cast any doubt upon these explicit statements in the statute concerns the effect of the last paragraph of Section 4 of the act. This paragraph provides that whenever any distributor undertakes to pay the excise tax in weekly installments and fails to pay the full amount in accordance with the terms and conditions {\*68} prescribed by the Comptroller, his license may be revoked, unless he complies immediately with the requirement of this section relating to the filing of a bond equal to two times the estimate of the distributor's "**monthly excise tax.**" This paragraph in no way conflicts with any of the other provisions of the act. It merely compels the distributor in certain cases to file a larger bond or else have his license revoked. In other words, where he had previously filed a bond equivalent to twice the estimated **weekly excise tax** he must thereafter file a bond equivalent to twice his estimated **monthly excise tax.** It is, therefore, my opinion that, correctly interpreted, Chapter 176 of the Laws of 1933 means that **every distributor** must file a bond or bonds in such amounts as stated therein, regardless of whether he pays the excise tax in weekly or monthly installments.

By: QUINCY D. ADAMS,

Asst. Attorney General