

BANKS & BANKING: Whiskey is a manufactured or processed
LOANS: derivative of agricultural products within
TRUST COMPANIES: the meaning of paragraph (4), subsection (c),
Section 8032, Laws of Mo. 1941.

March 24, 1942



Mr. D. R. Harrison, Commissioner
Department of Finance
Jefferson City, Missouri

Dear Sir:

This is to acknowledge receipt of your letter of recent date in which you request the opinion of this department. We herewith set forth in full your letter which is as follows:

"During the course of an examination of a trust company attention was directed to a loan in excess of the statutory twenty percent limitation provided in Paragraph 1 of Section 8032, page 684, of the Missouri Session Acts of 1941.

"The management of the trust company and its counsel contend that the amount of credit extended is not in excess of the statutory limitations, for the reason that it is almost entirely secured by bottled liquor in a local warehouse and, therefore, the indebtedness may equal but not exceed the thirty-five percent limitation provided in subparagraph (c) of Paragraph 1 of Section 8032.

"Will you please let us have an opinion as to whether whiskey is a manufactured or processed derivative of an agricultural product and also whether it has an actual market value. In other words, we should like to have an opinion as to whether a trust company may legally lend up to thirty-five percent of its capital and surplus to an individual, partnership or corporation on the security of warehouse receipts representing whiskey stored in bonded public warehouses."

We have heretofore rendered an opinion dated March 18, 1942, to you on the question as to what the term "actual market value" means in Section 7952, R. S. Missouri 1939, as amended by Laws of Missouri, 1941 at page 679. That opinion would apply equally as well to Section 8032, R. S. Missouri 1939, as amended by Laws of Missouri, 1941 at page 684.

Section 7952, supra, applies to banks organized under the laws of the State of Missouri, and Section 8032, supra, applies to trust companies and said sections are almost identical in their wording.

Section 8032, paragraph (4), subsection (c), pages 685-686, Laws of Missouri 1941, provides as follows:

"(c) The total liabilities to such trust company of any individual, partnership or corporation may equal but not exceed thirty-five (35) per centum of the capital stock actually paid in and surplus fund of such trust company: Provided, that all of such total liabilities in excess of the legal loan limit of such trust company as defined in subsection (b) of this subdivision, is upon paper based upon the collateral security of warehouses (warehouse) receipts covering agricultural products or the manufactured or processed derivatives of agricultural products in public elevators and public warehouses subject to state supervision and regulation in this state or in any other state of the United States, under the following conditions: First, that the actual market value of the property held in store and covered by such receipts shall at all times exceed by at least fifteen (15) per centum the amount loaned upon same and second, that the property covered by such receipts shall be insured to the full market value thereof against loss by fire and lightning, the insurance policies to be issued by corporations or individuals licensed to do business by the state in which the property is

secured, then in corporations or with individuals licensed to do an insurance business by the state or county of their incorporation or residence and all policies covering property on which the loan is made shall have indorsed thereon, loss, if any, payable to the holder of such warehouse receipts; and provided further, that in arriving at the amount that may be loaned by any trust company to any individual, partnership or corporation on such elevator or warehouse receipts there shall be deducted from such thirty-five (35) per centum of its capital and surplus fund the total of all other liabilities of such individual, partnership or corporation to such trust company." (Italics ours)

We will now direct our attention to your first question, that is, whether whiskey is a manufactured or processed derivative of agricultural products. If whiskey is such a derivative of agricultural products, trust companies may loan not to exceed thirty-five per cent of the capital stock actually paid in and surplus fund of such trust companies as provided in Section 8032, supra, upon paper based upon the collateral security of warehouse receipts, as provided in subdivision (c), supra.

We have found no cases that throw any light on this question and we must look to the definition of the terms used in this statute. In 1939 that part of the section with which we are concerned contained the term "covering agricultural products in public elevators and public warehouses," and in 1941 it was amended to read "covering agricultural products or the manufactured or processed derivatives of agricultural products in public elevators and public warehouses * * * *" The Legislature, therefore, intended to broaden the collateral that was eligible for security to include the manufactured or processed derivatives of agricultural products. The question then to be determined is whether whiskey comes within the terms added by the 1941 Legislature.

Encyclopedia Britannica, 14th Edition, defines whiskey as follows:

"A potable, alcoholic liquor distilled from cereal grains."

The Standard Dictionary gives this definition:

"An alcoholic liquor obtained from distillation of a fermented starchy compound, usually grain."

This definition is given in U. S. Pharmacopoeia:

"A distilled alcoholic liquor made from any of the various grains. In the United States whiskey has been generally distilled from rye, wheat and maize or corn."

The word "derivation" is defined by Webster's Unabridged Dictionary as:

"Obtained by, arising from, or consisting in derivation or transmission; derived; transmitted or educed."

The chemical definition of "derivation" in the Standard Dictionary is:

"A body formed or regarded as being formed from another; usually by partial replacement."

When the Legislature used the term "agricultural products or the manufactured or processed derivative of agricultural products," it used very broad and inclusive language and evidently intended to include many articles or substances that might be derived from agricultural products. We think whiskey comes within this classification.

CONCLUSION

We are, therefore, of the opinion that whiskey comes within the meaning of these terms and is a manufactured or processed derivative of agricultural products and a loan may be made by a trust company not to exceed thirty-five per cent of the capital stock actually paid in and surplus fund of such

Mr. D. R. Harrison

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trust company if all the other conditions and requirements
of this statute are complied with.

Respectfully submitted

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APPROVED:

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