

Opinion No. 52-5610

October 21, 1952

BY: JOE L. MARTINEZ, Attorney General

TO: Richard G. Marek, Chief Inspector New Mexico Egg Inspection Department State College, New Mexico

{*323} This is in reply to your letter of October 1, 1952, in which you inquire as to a problem confronted with respect to administration of Chapter 219, Laws of 1951, relating to the sale of eggs in New Mexico.

In the situation you mention, egg dealers in New Mexico purchase {*324} eggs out of the state and transport the eggs to their places of business in New Mexico. The eggs are packed outside of the state and the cartons within the cases bear the name and address of the out-of-state egg packer. You indicate that the out-of-state packer apparently contends that he is not required to purchase an egg dealer's license in New Mexico and you wish to know, if this contention is correct, whether the eggs may be sold in New Mexico with the name and address of the out-of-state packer upon the egg cartons.

The New Mexico law dealing with the sale of eggs has no application to the sale of eggs in any other state. Consequently the out-of-state egg packer, or dealer, is not bound by our law when sales of eggs are made outside of the State of New Mexico.

Once these eggs have come into New Mexico and have become part of the general class of merchandise for sale in New Mexico, the sale of such eggs is regulated by our law.

Packers, under New Mexico law, who traffic in eggs, are required to have a dealer's license and to affix proper grade labels to cases of eggs and their names and addresses must be shown upon the cartons of eggs within such cases.

The New Mexico law prohibits the sale of eggs in cartons which do not have the name and address of the packer stamped upon the cartons. The only packer who that can be is the packer or dealer who has affixed proper grade stamps to the cases according to New Mexico law. Egg cartons bearing the name of a packer who has not complied with the requirements imposed upon packers by New Mexico law as to grading labels, licensing and invoices, do not bear the name and address of the packer as contemplated by the New Mexico law.

In answer to your specific inquiry, therefore, the out-of-state packer need not be licensed in New Mexico for sales outside of this state. There is nothing to prohibit those who purchase those eggs outside of the State of New Mexico from bringing them into the state. The only prohibition as to such eggs is that they may not be sold in New

Mexico for the reason that the cases cannot possibly bear proper grading labels nor can the cartons bear the name and address of the packer as contemplated by New Mexico law.

Eggs not otherwise exempted from the provisions of Chap. 219, Laws 1951, may be sold in New Mexico only from cases labeled and invoiced as required by New Mexico law, and in cartons only when such cartons bear the name and address of the packer as that term is used in the law.

I trust this fully answers your inquiry.