

Opinion No. 64-100

August 3, 1964

BY: OPINION OF EARL E. HARTLEY, Attorney General Joel M. Carson, Assistant Attorney General

TO: Howard E. Babcock, Jr., Chief, Division of Liquor Control Bureau of Revenue, Santa Fe, New Mexico

QUESTION

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Do the auditors and inspectors of the Liquor Control Division of the Bureau of Revenue have the power to arrest persons who are not liquor licensees for violations of the Liquor Control Act?

CONCLUSION

Yes.

OPINION

ANALYSIS

From time to time, in the course of their investigations, employees of the Liquor Division of the Bureau of Revenue discover persons who are not licensed by the Liquor Control Division manufacturing and selling alcoholic beverages upon which no tax has been paid. The authority of the investigators to arrest these persons has been questioned.

N.M.S.A. 46-2-2 (1953) provides that the Commissioner of Revenue shall be authorized to employ the personnel necessary to perform the duties required by the Liquor Control Act.

N.M.S.A. 46-2-6 provides:

For the purpose of administering and enforcing this act, the chief of the division and his agents, auditors, and employees are hereby vested with the powers and duties of municipal, county and state law enforcement officers in the enforcement of this act.

N.M.S.A. 46-10-1 provides:

It shall be a violation of this act for any person who is not the holder of a license permitting the same, issued under the provisions of this act or of chapter 130, Laws of 1937, or whose license is suspended or has been revoked at the time of such

manufacture, sale, or possession thereof, to manufacture, for the purpose of sale, sell or possess for the purpose of sale, any alcoholic liquor in the state of New Mexico.

It is apparent that the reference to this act in Sections 46-2-6 and 46-10-1, N.M.S.A., 1953 Compilation pertain to the Liquor Control Act. See N.M.S.A. 46-1-1.1 (1953). Such being the case it is our conclusion that the personnel of the liquor division of the Bureau of Revenue have the same power to arrest persons for all violations of the Liquor Control Act that other law enforcement officers have.