

Opinion No. 14-1396

December 12, 1914

BY: H. S. CLANCY, Assistant Attorney General

TO: Mr. W. T. Scoggin, Las Cruces, New Mexico.

ITINERANT VENDOR'S LICENSE.

Farmers must pay peddler's license before selling pork from door to door.

OPINION

{*257} I have your letter of the 9th instant in which you state that a farmer who lives near the city of Las Cruces has been denied the right to sell pork and pork products directly to the consumer, local officers contending that in order to transact such a business he must first obtain a butcher's license and maintain a butcher shop, or obtain a peddler's license at a cost of \$ 50.00. You ask this office to point out the law applicable to such a case.

The first sub-division of Section 4141 of the Compiled Laws of 1897, as amended by Chapter 16 of the Session Laws of 1903, reads as follows:

"Peddlers traveling on foot, or with one animal shall pay two hundred and fifty dollars; peddlers with two animals or more, three hundred dollars: Provided, that each vehicle used in such business by the same peddler shall require each a separate license, and such license so issued to any peddler shall only be good in the county in which the same may be issued. All persons who may engage in any itinerant trade, by sample or otherwise, selling at retail to individual purchasers who are not dealers in the articles sold, except in the selling of maps, books, newspapers, fuel, fruits and domestic machinery, shall be considered peddlers within the meaning of this act."

I greatly fear that the farmer to whom you refer and who disposes of his pork to individual purchasers must be considered as a peddler, unless hogs can be properly designated as fuel, fruits or domestic machines. I venture the opinion that such a description {*258} could not be made to apply to this useful animal, or to any part or portion of him which may have been manufactured into sausage, chitlings or scrapple.

I realize the position in which small farmers are placed by operation of this law, and I agree with you that relief must be sought at the hands of the legislature. The law above quoted would seem to prohibit the peddling of any farm product, except fruits, but I personally know that the law is persistently violated in this section of New Mexico by persons who peddle from door to door beans, chili, onions, corn meal and vegetables of all kinds, and there has never been any disposition upon the part of anyone, so far as I am aware, to exact a license for the peddling of such articles.