

**Opinion No. [30-22]**

September 29, 1930

**BY:** J. A. MILLER, Assistant Attorney General

**TO:** Mr. W. D. Bryars, Alamogordo, New Mexico.

ELECTIONS -- § 41-334, Code 1929. Clerk may deliver absent voter's ballot to applicant only.

**OPINION**

I have yours of the 24th inst. in which you request a construction of sections 41-333 and 41-334 of the Codification of 1929.

Section 41-333 was enacted in 1927 and is now Codified as then enacted. Section 41-334, originally enacted in 1927 was more in harmony with the provisions of the preceding section than it is now after being amended by the Ninth Legislature in 1929. As originally enacted this section permitted the clerk to mail or deliver to the one applying as an absent voter "as requested in said application" that is I take it either to the voter himself or to the person designated by him in his application. The amendment, however, section 3 of chapter 117, Laws of 1929, inserted the words "to the said elector himself but not to anyone else" thereby making superfluous a part of the application form provided in the preceding section.

It is our opinion that under the requirements of the section as it now stands, that is, section 41-334 of the 1929 Compilation, the clerk on receipt of an application for an absent voter's ballot may either mail to the applicant or deliver to him in person one official ballot but may not either mail or deliver such ballot to any person other than the applicant.