

Opinion No. 37-1680

June 21, 1937

BY: FRANK H. PATTON, Attorney General

TO: Mr. W. R. Meador Chief of Division of Liquor Control, Bureau of Revenue Santa Fe, New Mexico

{*126} Your letter of June 19th makes inquiry regarding wholesalers who have made sales of equipment to dispensers or retail liquor dealers before passage of the new liquor law and who hold note and mortgage on such fixtures, payment being made monthly by dispenser or retailer.

I imagine you also have in mind sales of such equipment made on conditional sales contracts.

It would be my belief that in any case where a bona fide sale can be shown that same would not constitute a violation of the fair trade practices part of the liquor law. The main purpose of these fair trade practices provisions is to prevent and eliminate unfair competition, but I find nothing in the law which in any way would prohibit a bona fide sale by the wholesaler to the retailer or the dispenser.

Care, of course, must be exercised in following this opinion and the complete facts should govern in all cases as I realize that there exists a wide latitude for evasion of the statute.