

Opinion No. 47-5045

June 30, 1947

BY: C. C. McCULLOH, Attorney General

TO: Mr. H. W. Beasley, Chief New Mexico State Police, Santa Fe, New Mexico

{*64} We wish to acknowledge receipt of your letter of June 26, 1947 wherein you enclosed an inquiry from Patrolman C. G. Salas of Las Cruces pertaining to truckers parking on the side of the road and loading from one truck to another, and then driving off leaving straw and packing on the right of way to be scattered by the winds. The patrolman also states truckers stop along the right of way to peddle their cargo, and request, through you, an opinion as to whether or not there is any statute prohibiting same.

In response to the first question, I desire to set forth a part of Section 1 of Chapter 32, Laws of 1945 (Sec. 41-3528, Supp. to 1941 Compilation) which reads as follows:

"Deposit of offensive matter on public or private property. -- It shall be unlawful to place, deposit or dump or cause to be placed, deposited or dumped any garbage, swill, cans, scrap automobile bodies, metallic junk, bottles, papers, ashes, refuse, carcass or carcasses of any dead animals, offal, trash or rubbish, or any noisome, nauseum, or offensive matter in or {*65} upon any public or private highway or road, including any portion of the right of way thereof, * * *"

Section 41-3530, Supplement to the 1941 Compilation, makes the violation of the above section a misdemeanor and provides for a fine of not less than \$ 5.00 nor more than \$ 50.00, or imprisonment in the county jail for a term not exceeding 30 days, or both such fine and imprisonment.

It is my opinion there is no statute preventing truckers from stopping along the side of the road and selling their cargo. However, if they so park as to obstruct the view of passing motorists, they can be prosecuted for such.

Trusting the aforementioned satisfies your inquiry, I am

By ROBT. V. WOLLARD,

Asst. Atty. General