

Opinion No. 47-5076

September 15, 1947

BY: C. C. McCULLOH, Attorney General

TO: Benjamin D. Luchini Chairman-Executive Director Employment Security
Commission 111 South Sixth Street Albuquerque, New Mexico

{*88} In accordance with your request of September 15, 1947, for an opinion concerning whether or not the Commission has authority to levy upon the liquor stock of an employer who is in default in contributions due under the Unemployment Compensation Act, our opinion is that such stock can be levied upon.

Subsection (b) of Section 57-815 of the 1941 Compilation provides, in part, as follows.

". . . in the discretion of the Commission, if any contribution or any portion thereof, or any interest or penalty imposed by this act be not paid within thirty (30) days after the same becomes due, the Commission shall issue a warrant under its official seal. directed to the Sheriff of any county of the state commanding him to levy upon and sell the real and **personal property** of the person owing the same, found within his county, for the payment of the amount due and an added amount of (10) per cent of the contribution in addition to any other penalties imposed and costs of executing the warrant, and to return such warrant to the Commission and pay to it the money collected by virtue thereof, by the time to be therein specified not more than (30) days from the date of the warrant."

Unquestionably liquor stock constitutes personal property and under the aforementioned statute the Commission can issue its warrant directing the Sheriff of the county where such liquor stock is located to levy upon and sell same for the purpose of satisfying the contribution due from the employer who is in default.

However, we desire to point out at this time that Section 61-913 of the 1941 Compilation provides that any stock or part of a stock of alcoholic liquors. sold under execution, attachment, or the orders of any court, shall be sold only to licensed New Mexico liquor dealers.

Trusting the aforementioned satisfies your inquiry, I am,

By ROBERT V. WOLLARD,

Asst. Atty. General