

Opinion No. 56-6548

November 27, 1956

BY: RICHARD H. ROBINSON, Attorney General

TO: Dallas Rierson, Director, New Mexico College of Agriculture and Mechanic Arts, P. O. Box 728, State College, New Mexico

We have your letter of October 31 in which you request an opinion from this office upon the following question:

Does § 47-21-11, N.M.S.A., 1953 Compilation, require a stamp on honey produced in New Mexico and sold for interstate shipment?

This section reads as follows:

"There shall be attached to each and every container or package of honey offered for sale within the state of New Mexico a label permit upon which shall be printed a facsimile of the seal of the New Mexico College of Agriculture and Mechanic Arts and the denomination of the respective stamp. Said stamps may be procured from the office of the state bee inspector in proper denomination to be affixed to 8 oz., 12 oz., 16 oz., 22 oz., 32 oz., 46 oz., 2 1/2 lb. tin, 5 lb., 10 lb., and 60 lb. containers and shall be assessed at the rate of one-fourth cent per each pound indicated."

The wording of the statute indicates that all honey offered for sale within the State of New Mexico must have this stamp. The statute makes no distinction between honey offered for retail sale and that offered for wholesale sales.

We are of the opinion that the intent of the Legislature was to cause a stamp tax to be levied against all honey offered for sale in the State of New Mexico without regard to its place of ultimate consumption. Strength is added to this conclusion by the fact that § 47-21-14 provides that the revenues from the provisions of this Act (§§ 47-21-1 to 47-21-16) are to be used for the administration of the Act. Section 47-21-11 is part of the revenue producing provisions of the Act.

We, therefore, conclude that any honey produced in New Mexico and offered for sale in New Mexico, either retail or wholesale, regardless of where it will be consumed, would have to be labeled as provided by § 47-21-11.

Trusting we have answered your question, we remain

By Paul L. Billhymer

Assistant Attorney General