

Opinion No. 63-162

December 4, 1963

BY: OPINION of EARL E. HARTLEY, Attorney General

TO: New Mexico Department of State Forestry P. O. Box 1079 Santa Fe, New Mexico

QUESTION

QUESTION

May an individual cut trees from his own privately owned land and sell the same in his down store for Christmas decorations without complying with the provisions of Section 62-1-13, N.M.S.A., 1953 Compilation as amended?

CONCLUSION

Section A need not be complied with. Sections B and C must be complied with.

OPINION

{*380} ANALYSIS

Section 62-1-13, N.M.S.A., 1953 Compilation contains three sections. Section A provides in substance that no person shall cut or remove for sale a green or coniferous tree, branch, bough, sapling or shrub from the land of another without written consent of the owner. The section contains certain other provisions which need not be considered.

Under the question as stated, this portion of the act would not be applicable, since the individual is cutting from his own land and not from the land of another.

Section B of the act reads as follows:

"Each evergreen or coniferous tree **cut or removed** from public or private land in New Mexico **and being transported or offered for sale in the state** for the purpose of Christmas decoration shall bear a tag purchased from the department of state forestry. . ." (Emphasis added).

Under the provisions of this section of the statute, any such tree, no matter what the nature of the land from which removed, cut in this state or offered for sale in this state, must contain the tag which shall be exhibited as provided in the Section. The fact that the tree was cut on the seller's private land and was being offered for sale in his own store would not remove such person from the necessity of complying with this section of the act.

Section C makes it a misdemeanor and provides methods of requiring compliance with the provisions of Section A and B of the Act and its provisions may be resorted to when violations of Section B occur.

By: James V. Noble

Assistant Attorney General