

Opinion No. 13-1060

June 17, 1913

BY: FRANK W. CLANCY, Attorney General

TO: Hon. K. K. Scott, District Attorney, Roswell, N. M.

PHYSICIANS.

As to sale of intoxicating liquors upon a physician's prescription.

OPINION

{*230} I have received your letter of the 13th instant. You ask in substance whether Section 8 of Chapter 78 of the Laws of 1913 has the effect to repeal by implication Section 4136 of the Compiled Laws of 1897 so as to reduce the amount of intoxicating liquor which a licensed physician can prescribe from one quart to one pint. Attention should be called first to the fact that Section 4136 does not permit a sale upon physician's prescription of a quart, but "in quantities less than one quart."

I am of the same opinion as you that Section 8 of Chapter 78 of the Laws of 1913 does not work a repeal generally of Section 4136 of the Compiled Laws of 1897, but it does modify that section so far as the district is concerned which may be designated under Chapter 78. The language of said Section 8 is so general that it might be held entirely to repeal by implication Section 4136 were it not for the constitutional provision in Section 16 of Article IV which provides that the subject of every bill shall be clearly expressed in its title, and that if any subject is embraced in any act which is not expressed in the title, so much of the act as it not so expressed, shall be void. By the title of Chapter 78 it is limited to a regulation of "the barter, sale and exchange of intoxicating liquors in districts designated within any county of New Mexico." The regulation contained in the act cannot be extended beyond the limits of the districts which may be designated by the county commissioners to be voted upon by the people.