

Opinion No. 13-1136

November 22, 1913

BY: H. S. CLANCY, Assistant Attorney General

TO: State Corporation Commission, Santa Fe, New Mexico.

DRUMMERS.

Traveling salesmen may deliver to customers merchandise which accompanies him as baggage.

OPINION

{*318} I have your letter of the 22nd inst. enclosing one from Mr. F. W. Crandall, in which he desires to know whether under the laws of New Mexico, "restriction, if any, is placed upon the delivery of merchandise which has been checked as sample baggage." Evidently he desires to know, as you suggest, whether a traveling salesman may deliver to customers in New Mexico merchandise which accompanies him as baggage.

Section 2 of Chapter 128, Laws of 1905, in regard to itinerant vendors, specifically exempts what are known as drummers from the requirements of the act, and if such drummer sells goods to merchants in the usual course of business, and delivers them personally, I cannot see how it makes any difference whether the goods arrived at the point of sale by freight or in the shape of checked baggage. If such a drummer should attempt to sell these goods to persons other than merchants, he would necessarily be required to comply with the provisions of the act above cited, and would be considered an itinerant vendor.

I return to you herewith the letter of Mr. Crandall.