

**Opinion No. 14-1280**

July 22, 1914

**BY:** FRANK W. CLANCY, Attorney General

**TO:** Thomas Hughes, City Clerk, Albuquerque, New Mexico.

**OCCUPATION TAX.**

Under Chapter 131 of the Session Laws of 1909 city treasurers are authorized to collect occupation taxes.

**OPINION**

{\*140} I have received your letter of yesterday calling my attention to Chapter 131 of the Session Laws of 1909, for which I am obliged to you, as that chapter had entirely escaped my memory when I wrote you recently with regard to occupation taxes, and I wrote you in such haste that I called attention only to the earlier statutes, with which I have been familiar for years.

I think there can be no doubt that, under that statute of 1909, the city treasurers are authorized to collect all occupation taxes such as those for which provision is made by Section 4141 of the Compiled Laws of 1897 and the amendments thereto. I will send you copies of the two published volumes of opinions of this office, and you will see, by reference to pages 79 and 81 of the earlier volume, {\*141} that nearly five years ago I had occasion to consider this statute.

As to the legality of the tax, I do not see how there can be any reasonable doubt. It certainly was quite within the power of the legislature to provide for such taxes and there is nothing in the State Constitution which takes away or impairs that power of the legislature. On the contrary Section 2 of Article VIII distinctly declares that the legislature may provide for the levy and collection of license taxes, and by the next section that the enumeration of subjects of taxation in the preceding section shall not deprive the legislature of the power to require other subjects to be taxed in such manner as may be consistent with the Constitution.