

Opinion No. 14-1303

August 26, 1914

BY: FRANK W. CLANCY, Attorney General

TO: Honorable Ralph C. Ely, Chairman, New Mexico State Fair Commission, Deming, New Mexico.

STATE FAIR.

State fair commission has authority to grant concessions for the sale of liquor upon the fair grounds.

OPINION

{*158} Day before yesterday you orally asked me my opinion as to whether the State Fair Commission has authority to grant a concession {*159} for the sale of alcoholic liquors during the state fair on the fair grounds at Albuquerque, and you also asked that I should give you my opinion in writing, which I now do.

As I understand, while the Commission is not the owner of the fair grounds now in use, yet for fair purposes the grounds are under the control of the Commission just as much as though the Commission held the title thereto. I am unable to see how there can be any valid objection raised to the exercise of power by the Commission to permit any sort of business to be carried on within the grounds which is not forbidden by law. For instance, we have a stringent law against the playing of any game of chance for money or other thing of value, which is printed as Chapter 24 of the Laws of 1913. The Fair Commission could not properly permit any such game to be operated within the fair grounds. The sale of alcoholic liquors is not forbidden by any general statute, and there can be no doubt that it is within the lawful authority of the Fair Commission to permit such business during the fair.

In this connection, however, I call to your attention the provisions of Sections 4127 and 4135 of the Compiled Laws of 1897, and recommend that in granting any concession to a would-be seller of liquor you distinctly impose a condition that he shall comply with the statutes relative to licenses to do such business. You will see from the sections referred to that a license cannot be used for the carrying on of business at more than one place in any precinct, and even if transferred to another person, must be used only at the same place of business for which it was originally issued. This means, in effect, that the person to whom you may give the concession must obtain a license for which, under Section 4124 of the Compiled Laws of 1897, he must pay \$ 400.00, and under Section 4138, that license must be obtained more than sixty days before the general election which will be held on the 3rd of November next. He must also pay the special tax imposed by the United States statutes.

I make this recommendation so that you will certainly avoid any possibility of being involved in any attempted violation of these revenue laws.