

Opinion No. 15-1638

September 16, 1915

BY: H. S. CLANCY, Assistant Attorney General

TO: Hon. Wm. G. Sargent, State Auditor, Santa Fe, New Mexico.

License for sale of intoxicating liquors on railway trains.

OPINION

{*210} Replying to your oral request for the opinion of this office in regard to the question raised by Messrs. Hawkins and Franklin, General Attorneys for the El Paso and Southwestern System in their letter to you of the 11th inst. I have to say:

From the letter referred to it appears that you have called upon the El Paso and Southwestern Railway System in accordance with the provisions of Section 2911 et seq. of the codification of 1915 for the payment of a license for the sale of intoxicating liquors upon its trains, and that the contention of that System is that liquor is only sold upon the dining cars of what is known as the Golden State Limited trains which are owned and operated by the Chicago, Rock Island and Pacific Railway Company, which company has a license for the sale of intoxicants upon their cars. It appears, however, that the Golden State Limited trains are operated over the line of the El Paso and Southwestern System, and in view of the language of our statute upon that subject, it would appear that it is requisite {*211} that it obtain a license for the sale of intoxicating liquors. Section 2913 provides that any railroad company "which shall sell or permit the sale of intoxicating liquors upon any train operated over its line of railroad in this state," without having procured a license, shall be punished by a fine, and it is quite clear from the other language of this statute that it was the legislative intent that every railroad company operating a train within the state upon which liquor is sold should be subject to the payment of such a license. The fact that the dining cars appear to belong to the Chicago, Rock Island and Pacific Company could not make any difference, as it is clear that such dining cars are operated by the El Paso and Southwestern System over its line of railroad in this state.

I am, therefore, of opinion that the El Paso and Southwestern System should be required to obtain the license required by Section 2912 of the codification.