

Opinion No. 18-2133

October 5, 1918

BY: HARRY L. PATTON, Attorney General

TO: Mr. H. T. Clinard, Member Mounted Police, Mosquero, N.M.

Delivery Cannot Be Made of Liquor Contracted for Sale Prior to October 1, 1918.

OPINION

Your recent letter addressed to the United States Attorney of this district, asking for a construction of the prohibition amendment, has been referred to this office for reply. You state that a certain saloon man had contracted to sell liquor to various persons but that he had been unable to deliver the same to his customers, owing to the fact that he himself failed to receive the goods which he had bought for the purpose of filling these orders. You want to know if he is authorized to make these deliveries to his customers after the prohibition amendment has gone into effect.

The prohibition amendment to the constitution, which went into effect from and after October 1st, prohibits the sale of intoxicating liquors. The contract of sale is not complete until the delivery of the goods. The delivery of the liquor after October 1st would be a completion and consummation of the sale after that date. To avoid a violation of the law the sale must have been completed before the law went into effect, and it follows, in my opinion that there must have been a delivery before the law went into effect, or, conversely stated, that the law would be violated by delivery of the liquor after October 1st.