

**Opinion No. 33-692**

November 27, 1933

**BY:** E. K. NEUMANN, Attorney General

**TO:** Gasoline Tax Department, Santa Fe, New Mexico. Attn.: Ramon Gonzales, First Assistant.

{\*97} This is in reply to your letter of November 24, 1933.

You state that a certain person operates filling stations at Pecos, Santa Fe, Grants and Gallup. He plans to buy gasoline in tank car quantities at Artesia, store the same in Artesia, and from there haul it to his filling stations in his own trucks.

You wish to know whether or not he would be a distributor within the meaning of paragraph C-(4), Section 1, Chapter 176, Laws of 1933. I do not think so unless he sells gasoline in wholesale quantities. I think this paragraph has reference to the delivering of gasoline to a "purchaser" and does not cover a situation such as is mentioned in your letter.

As to the payment of a license fee for storage at Artesia, if any at all is required it would be a fee of \$ 5.00 provided by Section 3 of said Chapter 176. This section requires a fee of \$ 5.00 for "each place of business or agency." I do not think that a storage tank from which no gasoline is sold but which is only used to temporarily store gasoline until it can be taken to the owner's filling stations is a "place of business or agency" within the meaning of this section.

As to carrying the manifest required by Section 17 of the act above referred to, I believe that he should be required to carry such manifest. It is possible that the form of the manifest may have to be changed somewhat, but I do not believe that the temporary storage in Artesia would avoid compliance with this section.

By: QUINCY D. ADAMS,

Asst. Attorney General