

Opinion No. 38-1943

May 2, 1938

BY: FRANK H. PATTON, Attorney General,

TO: Bureau of Revenue Santa Fe, New Mexico. Attention: Mr. J. O. Walton, Attorney

{*231} Pursuant to your request we hereby supplement our former opinion dated June 1, 1937, and numbered {*232} 1654, dealing with the inspection of gasoline pumps. We now call your attention to Sections 14 and 15 of Chapter 102, Laws of 1937.

Section 14 provides as follows:

"It shall be unlawful for any person to use any scales, measure or measuring device in the handling or sale of petroleum products, unless the same is true and accurate, and the standard of weights and measures applied to said scale, measure or measuring device, shall be those now used by the United States Bureau of Standards."

Section 15 provides as follows:

"The Bureau of Revenue shall have the right, and it shall be its duty, to make periodic inspection of all equipment used in measuring or dispensing for sale, gasoline and all other refined petroleum products in this state, for the purpose of ascertaining that correct volume measurements are being dispensed from all such equipment. In the event that any such equipment is inaccurate, the person inspecting same shall forbid its use until such time as the defect is corrected, and if not corrected shall seal the same. The breaking of said official seal shall be prima facie evidence of a violation of this law, and no person shall refuse to permit the duly authorized state agent of the Bureau of Revenue to inspect and seal as deemed necessary, any such measuring device, nor shall any person break the seal without permission after it has been placed by such duly authorized agent of the Bureau of Revenue."

It is our opinion that the foregoing sections place full authority in and make it the statutory duty of the Bureau of Revenue to make periodical inspection of all equipment used in measuring or dispensing for sale gasoline and all other refined petroleum products.

The foregoing sections, in our opinion, authorize the inspection, by the Bureau, of all equipment used in the measuring and dispensing for sale of transmission grease and like products, irrespective of whether such a grease is measured and sold by the quart, etc., or whether the same is weighed and sold by the pound. Whatever equipment is used either for weighing or measuring such grease is, in our opinion, subject to inspection by the duly authorized state agent or agents of the Bureau of Revenue.

By: FRED J. FEDERICI,

Asst. Atty. Gen.