

Opinion No. 45-4684

April 9, 1945

BY: C. C. McCULLOH, Attorney General

TO: Mr. R. W. Heflin Securities Commissioner State Banking Department Santa Fe, New Mexico

{*43} Replying to your letter of April 5, 1945, requesting an opinion "as to whether whiskey warehouse receipts, either in bonded or unbonded warehouses, are securities, speculative or otherwise, as defined by the New Mexico statutes."

Section 53-805 of the N.M. 1941 Compilation provides as follows:

"A receipt in which it is stated that the goods received will be delivered to the bearer, or to the order of any person named in such receipt, is a negotiable receipt. No provision shall be inserted in a negotiable receipt that it is non-negotiable. Such provision, if inserted, shall be void."

You will note, in the above quoted statute, that a warehouse receipt is negotiable in that it calls for the delivery of the merchandise under the receipt.

If the merchandise consisted of wheat, corn, or many other products, there would be no question regarding the negotiability, or the fact that the warehouse receipt would be a security, and with speculative aspects. However, under Sections 61-503, 61-504 and 61-505 of the N.M. 1941 Compilation, these individual sections pertain to retailers' licenses, wholesalers' licenses, and brewers', distillers', rectifiers' and winers' licenses, and therefore, a transfer of a warehouse receipt, being the transfer of intoxicating liquor, would not be legal unless licensed under these sections.

By THOS. C. McCARTY,

Asst. Atty. General