

Opinion No. 45-4677

March 10, 1945

BY: C. C. McCULLOH, Attorney General

TO: Mr. R. F. Apodaca Superintendent of Insurance State Corporation Commission
Santa Fe, New Mexico

{*37} Replying to your request of March 2, 1945, requesting an opinion based on the following proposition submitted by an insurance company authorized to do business in this state.

"It is the intention of the insurance company to issue a master policy covering jewelry for a concern in this state. As each piece of jewelry is sold by the business concern, whether on a cash or credit basis, it will carry a certificate of insurance as issued under the aforementioned master policy. The basis of ascertaining the premium would be on the number of certificates outstanding at any one time. The purchaser of each piece of jewelry will pay one price for the jewelry which includes insurance thereof."

The first question upon which the opinion must be based is whether the Superintendent of Insurance is authorized to approve a "master policy" with the privilege of "certificates" policies being issued on which the premium would be charged. This question is answered by Section 60-605, N.M. 1941 Compilation, which we quote in part:

"No company licensed to transact an insurance business in the State of New Mexico shall issue or deliver any insurance policy until the form of same, and the rates or rate books and agents' manual and the instructions used in connection with the issuance of said policy, have been filed with the superintendent; * * *"

It appears to us, from the above "proposition", that it is the merchant who sells the insurance, and he would be an agent of the company.

It is our opinion that if the "company" complies with the rules and regulations of the "New Mexico Insurance Code" type of insurance and form of policy approval, and the agent is regularly licensed, there would be no violation of the "New Mexico Insurance Code."

By THOS. C. McCARTY,

Asst. Atty. General