

Opinion No. 45-4700

April 27, 1945

BY: C. C. McCULLOH, Attorney General

TO: Mr. J. R. Poe State Dairy Commissioner State College, New Mexico

{*54} Replying to your letter of April 24, 1945, wherein you request an opinion as to whether "a concern wishing to sell Honey Butter in package form in the State of New Mexico may be permitted to print on the lids of the packages '1/4 [cent] New Mexico Honey Tax Paid'", thereby eliminating the necessity of attaching to each package the New Mexico statutory label of the Seal of New {*55} Mexico College of Agriculture and Mechanic Arts. The answer is in the negative.

"49-2311. Labelling of package honey for sale. -- There shall be attached to each and every container or package of honey offered for sale within the State of New Mexico a label permit upon which shall be printed a facsimile of the seal of the New Mexico College of Agriculture and Mechanic Arts and the denomination of the respective stamp. Said stamps may be procured from the office of the state bee inspector in proper denomination to be affixed to 8 oz., 12 oz., 16 oz., 22 oz., 32 oz., 46 oz., 2 1/2 lb. tin, 5 lb., 10 lb. and 60 lb. containers and shall be assessed at the rate of one-fourth cent per each pound indicated. (Laws 1941, ch. 211, sec. 11, p. 449.)"

You infer in your letter that you may have in mind the question as to whether the concern could be permitted to print "1/4 [cent] New Mexico State Honey Tax Paid" on the package. We find no prohibition in the statutes and it is our opinion that, under the general rule-making powers, the board of regents of the New Mexico State College of Agriculture and Mechanic Arts, may approve such printing on the packages if they so desire. In any event, the New Mexico statutory label must be obtained and attached to each package as provided in the above statute.

By THOS. C. McCARTY,

Asst. Atty. General