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OFFICE OF THE ATTORNEY GENERAL  
AUSTIN

January 23rd, 1939

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Mr. Karl Cayton, County Attorney  
Dawson County  
Lamesa, Texas

Dear Mr. Cayton:

Opinion No. 0-148  
Re: Public Weighers

Your request for an opinion on the ques-  
tion:

"Does an elected Public Weigher have  
the right to all the business in the city  
or may a private weigher be employed by a  
concern to weigh and ship according to his  
own weight tickets?"

has been received by this office.

Article 5680, Civil Statutes, defines a  
public weigher as:

"Any person engaged in the business  
of public weighing for hire, or any per-  
son, who shall weigh or measure any com-  
modity, produce or article, and issue  
therefor a weight certificate or weight  
sheet, which shall be accepted as the ac-  
curate weight upon which the purchase or  
sale of such commodity, produce or article  
is based, shall be known as a public weigh-  
er \* \* \* \* \*

The cases, Flippen v. Murray, 66 S.W. (2d)  
757; McCraw v. Sewell, 20 S.W. (2d) 235; Paschal v.  
Inman, 157 S.W. 1158, and Martin v. Foy, 234 S.W. 689,  
hold:

"That any citizen possessing the pre-  
scribed qualifications of, and becoming bond-

ed as, an elected public weigher, may pursue the business of weighing for the public, regardless of whether or not there is a duly elected, qualified, and acting public weigher in the precinct in which he proposes to carry on the business; and any citizen possessing the prescribed qualifications upon executing a proper and sufficient bond and securing its approval by the Commissioners' Court of the county in which he proposes to act as public weigher is entitled to be appointed public weigher by said court; and it is the duty of the commissioners' court to hear proof of his qualifications and of the sufficiency and solvency of this bond, and, upon proper showing made, to approve his bond and appoint him public weigher."

The statute relating to public weighers does not operate to give such officers a complete monopoly of the business of public weighing. It expressly provides that owners are exempt from the necessity of employing public weighers and are authorized to weigh their own products. Article 5704, Revised Civil Statutes.

You are respectfully advised that the company mentioned in your inquiry has a right to employ a private weigher provided he complies with the law as is mentioned in the foregoing statutes and cases.

Trusting that the foregoing answers your inquiry, I remain

Yours very truly

ATTORNEY GENERAL OF TEXAS

By *Andell Williams*

Assistant

AW:OLB

APPROVED

*Gerard B. Mann*  
ATTORNEY GENERAL OF TEXAS