



**OFFICE OF THE ATTORNEY GENERAL OF TEXAS**

**AUSTIN**

**GERALD C. MANN**  
ATTORNEY GENERAL

Department of Agriculture  
Austin, Texas

Gentlemen:

Attention: W. S. Bussey

Opinion No. O-2470-A  
Re: Certain price advertisements which might be of a deceptive misleading nature.

The following is to be considered supplemental to Opinion No. O-2470.

We quote the body of your letter of July 10, 1940, as follows:

"As per our conversation of yesterday concerning the above opinion, it seems that the question asked in the last paragraph of our letter was not thoroughly understood, as we endeavored to point out that it was our interpretation of Article No. 1554 that the duty of enforcing said article was not placed specifically upon any law enforcing agency.

"It was our desire to learn just what agency or agencies would have the legal authority and could reasonably be expected to enforce this law."

Article 5705, Revised Civil Statutes of 1925, provides:

"The Commissioners of Markets and Warehouses shall have power and authority to enforce, or cause to be enforced, any provision of this chapter. He shall appoint a chief

deputy, who shall be known as Chief Deputy of Weights and Measures. In the absence or inability of the Commissioner, such deputy may perform any duty required by the provisions of this chapter. . . ."

Article 5707, Revised Civil Statutes of 1925, provides:

"The Commissioner shall investigate conditions throughout the State, and especially in all the cities and towns in the State, with respect to weights and measures, and the sale of goods, wares and merchandise, commodities, food stuff and feed stuff sold in packages or containers, and also all kinds of feed, fuel or ice that is sold by weight or measure. . . ."

Article 5710, Revised Civil Statutes, 1925 ~~whip-~~ulates:

"The Commissioner, his deputy, sealers or inspectors and all local sealers and their deputies in the performance of their official duties, shall have the same power as peace officers in this State." (Underlining ours)

Article 37 of the Code of Criminal Procedure prescribes the duties of peace officers as follows:

"It is the duty of every peace officer to preserve the peace within his jurisdiction. To effect this purpose, he shall use all lawful means. He shall, in every case where he is authorized by the provisions of this Code, interfere without warrant to prevent or suppress crime. He shall execute all lawful process issued to him by any magistrate or court. He shall give notice to some magistrate of all offenses committed within his jurisdiction, where he has good reason to believe there has been a violation of the penal law. He shall arrest offenders without warrant in every

Department of Agriculture, Page 8

case where he is authorized by law, in order that they may be taken before the proper magistrate or court and be tried."

We trust that the foregoing will serve to clarify that portion of Opinion No. O-2470 which appears to confuse you. We shall again advise that you, in your capacity as Chief Deputy of Weights and Measures, are not specifically charged with the enforcement of the provisions of Article 1554, Penal Code. However, in all those certain instances where you consider a violation of said penal statute as falling within the bounds of one or more of those investigations which you are authorized to conduct by the terms of Article 5707, Revised Civil Statutes of Texas, then, the statutory provisions set out above clearly give you power and authority to invoke and enforce the penal provisions of Article 1554. In your determination of this question of duty you shall be guided by your sound discretion.

Trusting that this affords an answer to your inquiry, we remain

Yours very truly

ATTORNEY GENERAL OF TEXAS

By

Wm. J. Fanning  
Assistant

By

Grundy Williams

GW:caw