

OPINION
63-188

May 20, 1963 (OPINION)

PUBLIC SERVICE COMMISSION

RE: License - Limited to Statutory Authority

Referring to your opinion request of April 3, 1963, the question is whether or not the Public Service Commission may "* * * license weighmasters, and/or weighman, to perform official weighing of commodities or goods other than grain or livestock?" The correspondence accompanying the opinion request indicates that the question arose as a result of a request that the commission license a weighmaster for a coal company.

In your request, you refer this office to sections 60-09-01, 36-06-05 and 36-21-14 of the North Dakota Century Code. Chapter 60-09 authorizes the commission to issue "grain elevator weighmaster" licenses (section 60-09-01), and provides that one holding such a license is entitled to perform "official weighing of grain at grain elevators." Section 60-09-03.

Chapter 36-06 of the North Dakota Century Code requires that all livestock purchased or sold at any packing plant in North Dakota be weighed by a bonded weighmaster licensed by the Public Service Commission. Sections 36-06-04 and 36-06-05.

Chapter 36-21 of the North Dakota Century Code authorizes the commission to license public market weighmen, (section 36-21-14), such persons being responsible for the weighing of "* * * livestock, poultry, or other agricultural and horticultural products consigned to and sold at any public market." Section 36-21-17.

It is manifest that the commission has been specifically rather than generally empowered by the Legislature as to the licensing of weighmasters and weighmen. That being the case, it follows that the commission has only such weighmaster and weighman licensing powers as have been specifically granted to said commission. Those powers are: (1) the power to license "grain elevator weighmasters", (2) packing plant weighmasters, and (3) public market weighmen. The first-mentioned may officially weigh grain only; the second may officially weigh livestock only; and the third may officially weigh only "livestock, poultry, or other agricultural and horticultural products consigned to and sold at any public market."

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