



**THE ATTORNEY GENERAL  
OF TEXAS**

**AUSTIN, TEXAS 78711**

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January 15, 1976

The Honorable John C. White  
Commissioner of Agriculture  
Texas Department of Agriculture  
P. O. Box 12847  
Austin, Texas 78711

Opinion No. H-764

Re: Whether persons who  
sell citrus fruit from  
door to door must be  
licensed under the Citrus  
Bonding and Licensing  
Act.

Dear Commissioner White:

You have requested our opinion concerning an apparent conflict between sections 22 and 4(b)(5) of article 118b, V.T.C.S., The Citrus Fruit Growers Act. Section 22 of the Act provides in part:

The provisions of this Act shall not  
apply to a retailer of citrus fruit. . . .

Section 4(b)(5), enacted by the 64th Legislature, provides:

For a license as a 'dealer' who sells  
any citrus fruit from door to door or  
from temporary locations, the sum of  
One Dollar (\$1).

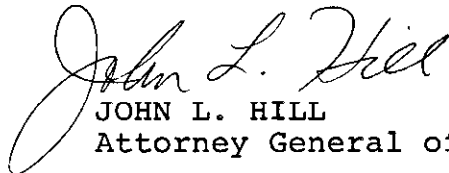
You have asked whether persons described in section 4(b)(5) are "retailer[s]" within the meaning of section 22 and if so which provision prevails. The word "retailer" is not defined in the Act. However, we need not fully explore the scope of the meaning of "retailer" for in our view even were these vendors within the normal definition of "retailer," the new section 4(b)(5) clearly removes them from the scope of that term as used in section 22.

It is well established that in the case of conflict between statutory provisions the later enacted and more specific provisions must control. 53 Tex.Jur. 2d, Statutes, §§ 100, 101, 143, 161, 187, and authorities cited therein. Since section 4(b)(5) is both the later enacted and more specific provision, it must control. Accordingly, it is our opinion that persons who sell citrus fruit door to door or from a temporary location are not "retailer[s]" within the exemption contained in section 22. See Paul v. Eggman, 53 Cal. Rptr. 237 (Cal. Ct. App. 1966); Forest v. Morgan, 7 N.Y.S. 2d 988 (Sup. Ct. N.Y. 1938).

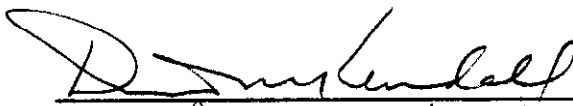
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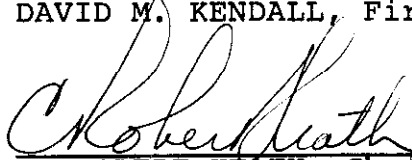
Section 4(b)(5) of article 118b prevails over section 22 of the same article. Thus, persons who sell citrus fruit door to door or from temporary locations are not within the exemption granted to "retailer[s]" in section 22.

Very truly yours,

  
JOHN L. HILL  
Attorney General of Texas

APPROVED:

  
DAVID M. KENDALL, First Assistant

  
C. ROBERT HEATH, Chairman  
Opinion Committee

jwb