

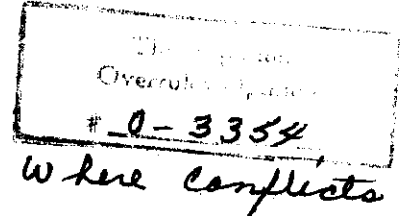


**THE ATTORNEY GENERAL
OF TEXAS**

AUSTIN 11, TEXAS

**WILL WILSON
ATTORNEY GENERAL**

October 29, 1957



Honorable John C. White,
Commissioner, Texas Department
of Agriculture
Austin, Texas

Opinion No. WW-290

Re: May a one pound package of
Rye Slices composed of two
rows of slices in a card-
board box with a cellophane
overwrap be legally sold
in Texas under the provi-
sions of Rule 5 of Article
719, Vernon's Penal Code?

Dear Mr. White:

You have requested an opinion of this office concern-
ing the application of Rule 5 of Article 719, Vernon's Penal
Code to the sale of a particular package of bread slices. You
have posed a question which is substantially as follows:

May a one pound package of Rye Slices
composed of two rows of slices in a cardboard
box with a cellophane overwrap be legally
sold in Texas under the provisions of Rule 5
of Article 719, Vernon's Penal Code?

Rule 5 of Article 719, Vernon's Penal Code, reads as
follows:

"Bread to be sold by the loaf made by
bakers engaged in the business of wholesaling
and retailing bread, shall be sold based upon
any of the following standards of weight and
no other, namely: a loaf weighing one pound
or 16 ounces, a loaf weighing 24 ounces or a
pound and a half, and loaves weighing two
pounds or 32 ounces, and loaves weighing three
pounds, or some other multiple of one pound or
16 ounces. These shall be the standard of
weight for bread to be sold by the loaf. Varia-
tions, or tolerance, shall not exceed one ounce
per pound over or under the said standard with-
in a period of 24 hours after baking."

The purpose for prescribing standard weights for loaves of bread is to prevent the vendor from selling loaves of similar size as those of a larger size. 90 A.L.R. 1291. In the case of the product at hand, we fail to find any factor present which would tend to mislead the public. As a result of the packaging of the product, the buyer must purchase both rows of slices, which have an aggregate weight of one pound. Thus, it is logical, we believe, to hold that the purchaser is in fact getting "a loaf" of bread which weighs one pound. We believe to hold otherwise would be to contravene the obvious purpose of Rule 5 of Article 719, Vernon's Penal Code, and place an undue burden on the producer.

For this reason we are of the opinion that the product in question may be legally sold in Texas under the provisions of Rule 5 of Article 719, Vernon's Penal Code.

We hereby overrule Attorney General's Opinion No. 0-3354 (1941) in so far as it may be in conflict with the above holding.

S U M M A R Y

A one pound package of Rye Slices composed of two rows of slices in a cardboard box with a cellophane overwrap may be legally sold in Texas under the provisions of Rule 5 of Article 719, Vernon's Penal Code.

Very truly yours,

WILL WILSON
Attorney General of Texas

By

Wayland C. Rivers Jr.

Wayland C. Rivers, Jr.
Assistant

WCR:pf:zt

APPROVED:

OPINION COMMITTEE
Geo. P. Blackburn, Chairman
Wallace Finfrock
L. P. Lollar
Richard Stone