

Opinion No. 53-5627

January 7, 1953

BY: RICHARD H. ROBINSON, Attorney General

TO: Mr. L. W. Leibrand Chairman New Mexico Public Service Commission P. O. Box 561 Santa Fe, New Mexico

{*4} In reply to your inquiry of September 25, 1952, requesting an opinion concerning whether or not firms or persons engaged in the sale of house trailers equipped with liquefied petroleum gas appliances and piped for the conduction of liquefied petroleum gas, for the use in the house trailers, and the application of Sections 71-804 to 71-825 inclusive, N.M.S.A., 1941 Compilation, as applies to those persons or firms so dealing, we first would like to refer you to an opinion of the Attorney General, No. 5384, dated July 10, 1951. In the opinion above cited the problem was presented in general terms and the general powers of the Commission were outlined.

We feel that the answer to the specific question of the application to the dealers of the house trailers and the application of a license fee to them is clearly defined in Section 71-811, N.M.S.A., 1941 Compilation, and specifically in sub-section (a) of that statute. Section 71-811, N.M.S.A., 1941 Compilation through subsection (a) reads as follows:

"License and inspection fees. -- For the purpose of defraying the expenses of administering this act (§§ 71-804-71-825), each person, firm or corporation shall, at the time of issuance of such license and annually thereafter, on or before January 31st of each calendar year, pay to the commission the following designated license fees for each place of business in the state where operations are carried on coming under the provisions of this act: (a) Selling only of containers, appliances, or equipment for use with liquefied petroleum gas, wholesale or retail, a license fee of twenty dollars (\$ 20.00)."

This section when read in conjunction with Section 71-805, N.M.S.A., 1941 Compilation, which section {*5} empowers the Commission to regulate all persons or firms employed in the sale of liquefied petroleum appliances, appears to cover all persons or firms dealing in liquefied petroleum appliances in any way.

Section 71-805, N.M.S.A., 1941 Compilation reads as follows:

"Containers and equipment. -- All containers and pertinent equipment used or to be used in this state for the storage, transporting and/or dispensing of liquefied petroleum gases, by either industrial, commercial and/or domestic users, together with appliances used or to be used in this state with liquefied petroleum gases as a fuel, shall be designed, constructed, assembled, equipped and installed as specified by the rules and regulations of the New Mexico Public Service Commission, adopted and/or promulgated as provided in this act."

In the sale of house trailers, while the trailer is the item being sold, a very necessary component part of that trailer is the heating equipment. There is no substantial difference between the installation of such equipment in a house trailer and the installation of liquefied petroleum gas equipment in a permanent residence. The danger to the occupants is present in a house trailer, and if anything is more pronounced therein than in a permanent type of domestic residence. The possibility of movement causing a breakdown in the appliances in a house trailer is pronounced and the confined quarters in a house trailer would cause the problem to be magnified to a great degree.

Sections 71-804 to 71-825 inclusive, N.M.S.A., 1941 Compilation, were emergency acts passed by the 1947 Legislature for the protection of the health and safety of the people of New Mexico. We feel that Act intended to include **all** persons engaged in the sale of liquefied petroleum appliances and installations regardless of the manner in which those appliances were sold.

In our opinion the persons or firms selling house trailers equipped with liquefied petroleum appliances and piping are covered by the Act and fully subject to all license fees and regulations promulgated by the New Mexico Public Service Commission.

We sincerely hope that this fully answers your inquiry.

By: Fred M. Standley

Asst. Attorney General