

Opinion No. 53-5704

March 17, 1953

BY: RICHARD H. ROBINSON, Attorney General

TO: Mr. C. W. Burrell Commissioner State Labor and Industrial Commission Santa Fe, New Mexico

{*96} This is in reply to your letter of March 9, 1952, in which you request an opinion on the applicability of the maximum hour laws to certain workers.

First under Section 57 - 314 N.M.S.A., 1941 Compilation, you ask whether the law applies to male employees of a hotel, other than those in the actual restaurant (bellboys, desk clerks, etc.). The first part of Section 57-3114 N.M.S.A., 1941 Compilation, specifically provides that any hotel, restaurant, cafe or eating {*97} house owner within this state shall not be allowed to cause any male employee therein to labor more than 10 hours in any 24 hours of any one day, nor more than 70 hours in any one week of 7 days. The word "any" includes one and all of the employees of a hotel. The law is mandatory.

It is therefore our opinion that Section 57-317 N.M.S.A. 1941 Compilation, applies to any or all employees of a hotel, including (bellboys, desk clerks, chamber maids, etc.).

Under Section 57-401 N.M.S.A. 1941 Compilation, you want to know whether the law applies to female employees of a hospital or sanitarium other than registered and practical nurses, clerks, cleaning women, etc.). The last proviso of Section 57-401 N.M.S.A. 1941 Compilation, reads as follows:

"* * * the provisions of this Act (§§ 57-401-57-409) shall not apply to hospitals or sanitariums, or to registered or practical nurses wherever employed; or to midwives while engaged in their duties as such."

In our opinion, this last proviso exempts employees of hospitals and sanitariums. The proviso specifically exempts hospitals and sanitariums, registered and practical nurses wherever employed and midwives while engaged in their duties as such. It is our opinion that this proviso exempts from the provisions of Section 57-401 N.M.S.A. 1941 Compilation, employees of any hospital or sanitarium, including (clerks, cleaning women, etc.). In other words these employees last mentioned can be made to work more than 8 hours in any one day of 24 hours and more than 48 hours in any one week of 7 days.

Trusting that this fully answers your inquiries, I remain

By: Hilario Rubio

Assist. Attorney General