

Opinion No. 54-5898

February 3, 1954

BY: RICHARD H. ROBINSON, Attorney General

TO: Mr. E. P. Corcoran Plumbing Engineer State Plumbing Administrative Board 307 Lead Avenue, S.W. Albuquerque, New Mexico

{*335} Receipt is acknowledged of your letter dated January 9, 1954, in which you request an opinion as to whether or not there is a limit under the present law limiting the amount of work that can be done by a state employed maintenance man, as far as plumbing is concerned. Your question, in other words is whether or not a maintenance man can make actual installations in a state owned institution or is he limited to maintenance and repair work only.

I believe that Section 51-3011 of the 1941 Compilation, p.s., answers your question, together with Section 51-3013 of the 1941 Compilation, p.s., The pertinent part of Section 51-3011 of the 1941 Compilation, p.s., reads as follows:

"Before any plumbing or fixtures shall be installed, altered, repaired or renovated within or on any building, structure or premises, publicly or privately owned, a permit therefor shall be secured from the plumbing inspector in whose jurisdiction such installation, alteration, repairs or renovation is to be made, except as provided in Sec-2 (§ 51-3002) of this act and except that no permit shall be required to execute any of the following classes of work:

- (a) Minor repair work, the replacement {*336} or repair of faucets, taps and jets, or the connection of portable equipment to suitable connections or inlets which have been permanently installed.
- (b) The installation of temporary fixtures or devices for testing fixtures, equipment or apparatus.

"Application for such permit, describing the work to be done, shall be made to the plumbing inspector by the person, firm, partnership or corporation installing, altering, repairing or renovating same. Specifications and plans necessary to determine if the installation, alteration, repair or renovation as described will be in conformity with the requirements of the statutes of the State of New Mexico, the orders, rules and regulations of the board and all applicable local ordinances and regulations shall accompany the application. If it shall be found that the installation, alteration, repairs or renovation will conform with all legal requirements, a permit for such installation, alteration, repairs or renovation shall be issued.

"No deviation shall be made from the installation, alteration, repairs or renovation described in the permit without the written approval of the plumbing inspector who has jurisdiction."

It is very clear from the language of this statute that a permit is not required for minor repair work, the replacement or repair of faucets, taps and jets, or the connection of portable equipment to suitable connections or inlets which have been permanently installed, or the installation of temporary fixtures or devices for testing fixtures, equipment or apparatus. However, the installation of any new plumbing, which is not what you call minor work, replacement or a repair of a temporary nature has to be done by a licensed plumber.

Section 51-303, N.M.S.A., 1941 Compilation, p.s., provides as follows:

"Upon the completion of any installation, alteration, repair or renovation of any plumbing or fixtures which has been made under a permit, other than an annual permit, it shall be the duty of the licensee installing, altering, repairing or renovating same to notify the plumbing inspector having jurisdiction, who shall inspect the work within a reasonable time.

"Where the inspector finds the installation, alteration, repairs or renovation to be in conformity with orders, rules and regulations of the board and all ordinances applying to the installation, he shall issue to the person, member or agent of the firm, partnership or corporation that made the installation, alteration, repairs or renovation a certificate of approval, authorizing the use of same and connection to the supply of water, gas, oil, air or to the sewage disposal system, and shall send written notice of such authorization to the agency which supplies the water, gas, oil, air or sewage service.

"When a certificate of approval is issued authorizing the connection and use of temporary work, such certificate shall be issued to expire at a time to be stated therein, and shall be revocable by the plumbing inspector issuing same at any time for cause.

"At regular intervals, the plumbing {*337} inspector having jurisdiction shall visit all buildings and premises where work may be done under annual permits and shall inspect all plumbing installed under such permits since the date of his last previous inspection. The plumbing inspector shall issue a certificate of approval for such work as is found to be in conformity with the orders, rules and regulations of the board, after payment of any required fees.

"If, upon inspection any installation, alteration, repairs or renovations is found to not be fully in conformity with the provisions of this act, the orders, rules and regulations of the board, the plumbing inspector making the inspection shall at once forward to the person or member or agent of the firm, partnership or corporation making the installation a written notice stating the defects that have been found to exist, with orders to correct these defects at once.

"Every deputy state plumbing inspector shall, not later than the third day of each month, make a report to the board of all inspections made and certificates of approval issued by him during the preceding month."

From the language of the above quoted statute, if any maintenance man in a new building is doing plumbing work, upon the completion of any such plumbing work, the inspection of such work can be made and the inspector could refuse to approve such installation because of the work being done by a non-licensed plumber as provided by law, and proceed to give notice to such board governing said public building stating the defects that have been found to exist, with orders to correct these defects at once.

It is therefore the opinion of this office that under the above quoted statutes, a maintenance man working for a public or private institution, is limited as herein before explained, to do the kind of work that can be done for said public or private institution, and that installations have to be made by a licensed plumber and only by a licensed plumber.

Trusting that this fully answers your inquiries, I remain,

By: Hilario Rubio

Assist. Attorney General