

Opinion No. 55-6258

August 18, 1955

BY: RICHARD H. ROBINSON, Attorney General

TO: Mr. Richard F. Rowley, District Attorney, Ninth Judicial District, Clovis, New Mexico

Receipt is acknowledged of your letter dated August 2, 1955, in which you request an opinion as to whether Chapter 200, New Mexico Session Laws of 1955 applies to bellhops who work at the hotel in Clovis and other hotels similarly situated.

You further state that the bellhop you refer to has never been paid any salary, but keeps gratuities given him by patrons of the hotel.

The pertinent parts of Chapter 200 of the 1955 New Mexico Session Laws read as follows:

"(a) 'Employ' includes suffer or permit to work

(b) 'Employer' includes any individual, partnership association, corporation, business trust, legal representative or any organized group of persons employing four or more employees at any one time, acting directly or indirectly in the interest of an employer in relation to an employee, but shall not include the United States, the state or any political subdivision thereof.

(c) 'Service Employees' shall be interpreted to mean persons employed in the following establishments and occupations:

. . . .

(3) **hotels**, motels, tourist courts and other establishments furnishing lodging for hire to the public; and . . ." (Emphasis ours)

From the wording of the above quoted section, it is the opinion of this office that the bellhop you refer to, as well as others similarly situated, come under the provisions of Chapter 200, New Mexico Session Laws of 1955, as a service employee, as defined by the Act and entitled to 50c per hour as a minimum wage, but gratuities or tips should be included in the 50c per hour minimum.

Trusting that this fully answers your inquiry, I remain

By: Hilario Rubio

Assistant Attorney General