

## **Opinion No. 67-01**

January 5, 1967

**BY:** OPINION OF BOSTON E. WITT, Attorney General

**TO:** Honorable Alfonso G. Sanchez District Attorney First Judicial District County Courthouse Santa Fe, New Mexico

### **QUESTION**

#### QUESTION

Must gasoline service stations comply with the regulations of the State Health Department governing the sanitation of foods and food-handling establishments when selling milk to the public?

#### CONCLUSION

No.

### **OPINION**

#### **{\*2} ANALYSIS**

At the request of the public health sanitarian of the Santa Fe County Health Center, you have asked a question concerning the applicability of the regulations of the State Health Department governing the sanitation of foods and food-handling establishments to gasoline service stations selling milk in conjunction with their regular operations. The question asked actually involves a construction of the above mentioned regulations, but we have taken the liberty of re-phrasing the question since we do not feel that the above regulations are applicable and therefore a construction of the regulations is unnecessary.

The regulations governing the sanitation of foods and food-handling establishments have been promulgated under authority of Sections 54-3-1 and 54-3-16, N.M.S.A., 1953 Compilation, which deal with sanitation requirements in food establishments. This act is limited to governing the sanitation in restaurants, bakeries, meat markets or grocery stores selling meat in conjunction with other products. Section 54-3-1 (A), *supra*. Obviously, gasoline service stations that are not selling meat products in conjunction with their regular service station operations are not covered by the above act.

Since they are not covered by the act governing sanitation requirements in food establishments, they are not covered by the regulations promulgated under this act. We must conclude that so long as these gasoline service stations are not selling meat or operating in conjunction with a grocery store selling meat or in conjunction with a

restaurant as defined in Section 54-3-1 (a), supra, they are not subject to the regulations governing the sanitation of foods and food-handling establishments when selling milk to the public.

We specifically limit this opinion to the applicability of the regulations of the Health Department governing sanitation of foods and food-handling establishments. We have no doubt that the Health Department under other existing authority may regulate the health standards of gasoline service stations selling milk.

By: Gary O'Dowd

Assistant Attorney General

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