Opinion No. 17-1999

June 11, 1917

BY: GEORGE C. TAYLOR, Assistant Attorney General

TO: Mr. Cleofes Romero, Supt. of Insurance, Santa Fe, New Mexico.

Under Workmen's Compensation Act Employers' Liability Policy Must Be Filed and a Mere Notice That the Employer Has Taken Out Insurance Is Insufficient

OPINION

I have your letter of May 21st with enclosures in which you ask just what kind of notice must be given under the Workmen's Compensation Act, and whether the two forms of notice constitute a compliance with the law, and further whether your department has anything to do with the administration of the Workmen's Compensation Act. The enclosures referred to are herewith returned.

From examining the so-called notices it appears that they are forms used in the States of Oklahoma and Texas, whose statutes no doubt are different from the New Mexico act. They are merely employer's unverified statement that he has taken out an insurance policy in some specific liability insurance company. I can find nothing in the New Mexico act which would authorize the filing of a mere application for liability insurance or the notice of the issuance of a policy for any purpose whatever. The last sentence of Section 3 of the act, reading in part:

"every contract or policy insuring against liability for compensation * * * filed as provided by this section * * * shall provide that the insurance carrier * * * shall be directly and primarily liable to the workmen,"

clearly indicates that the policy itself must be filed with the clerk.

As to the duties of the Insurance Department under the Workmen's Compensation Act, you are advised that I can find nothing in this act imposing any duty upon your office other than under the general insurance laws, giving your department general supervision over all insurance companies, which would include such liability or casualty companies as may wish to do business under this compensation act.