

Opinion No. 20-2625

June 26, 1920

BY: N. D. MEYER, Assistant Attorney General

TO: Mr. L. Archuleta, La Madera, New Mexico.

Application Workmen's Compensation Law.

OPINION

This office is in receipt of your letter relative to the sign which the Hallack & Howard Lumber Company have posted on their premises giving notice that the Workmen's Compensation Act is not intended to apply.

Under this state of facts, the employes of the Company will not be protected under the Workmen's Compensation Act. The law (Chapter 83, Session Laws of 1917) provides that if the employer and employe, by agreement, express or implied, agree to be bound by the provisions of the Act, that the employe will be protected under the terms of the same in case of injury.

It is further provided that every contract of hire, verbal or written, made subsequent to the time of the passage of the Act, shall be presumed to have been made with reference to the provisions of the said Act unless there be a statement in writing prior to any accident or written notice from either party to the other that the provisions of the Act are not intended to apply.

You will therefore see that in order for the Workmen's Compensation Act to apply, it must be agreed by both parties that they will be subject to the provisions of the same, but that if either party gives notice to the other that the Act is not intended to apply, then the same does not become a part of the employment agreement.

Anybody accepting employment or continuing in the employ of the Company which you mentioned will not be protected under the terms of the Workmen's Compensation Act.