

Opinion No. 41-3937

October 30, 1941

BY: EDWARD P. CHASE, Attorney General

TO: Mr. Vincent J. Jaeger State Labor Commissioner Santa Fe, New Mexico

{*119} In your letter of October 30 you request our opinion as to whether or not female employees in telephone or telegraph offices where five or less are employed come under the restrictions set forth in Section 1, Chapter 196, Laws of 1939.

The question you have propounded necessitates our making a brief review of the history of the act in question. Reading the 1939 act by itself, it would appear at first blush that such employees would come within the restriction, but let us look further.

The original so-called labor act in question first appeared on the statutes of our state as Chapter 148 of the Laws of 1933. Section 1, Chapter 196, Laws of 1939, amended Section 1 of Chapter 148, Laws of 1933, by raising the number of days to be considered as a week from six to seven days. Other than this change, Section 1, Chapter 196, Laws of 1939, follows verbatim the language used in Section 1, Chapter 148, Laws of 1933, and both sections specifically refer to female employees in "any telegraph or telephone office."

Section 6 of Chapter 148, Laws of 1933, specifically exempts from the operation of the act female employees in a telephone or telegraph office where five or less are employed and the 1939 act in no way attempts to amend said Section 6 of the 1933 act.

Construing the two acts together, I conclude that it was the legislative intent to leave the exception in Section 6, Chapter 148, Laws of 1933, intact and it is therefore my opinion that female employees in a telegraph or telephone office where five or less are employed would not come under the restriction set forth in Section 1, Chapter 196, Laws of 1941.

Trusting that the foregoing sufficiently answers your inquiry, I am

By HOWARD F. HOUK,

Asst. Atty. General