

**Opinion No. 52-5567**

July 21, 1952

**BY:** JOE L. MARTINEZ, Attorney General

**TO:** C. W. Burrell State Labor Commissioner Santa Fe, New Mexico

{\*277} Recently you requested from this office an interpretation of §§ 57-401 and 57-407 NMSA pertaining to the following set of facts:

A woman taxicab dispatcher is employed 45 1/2 hours per week, 6 hours in each of 5 days and 15 1/2 hours on the 6th day. You ask whether this employee would be entitled to time and one-half pay for the 7 1/2 hours of overtime on the 6th day.

First of all, it must be pointed out that § 571401 prohibits female employees, other than those specifically excepted therein, from working for more than 8 hours in any 24 hour period. Therefore, the woman you mention should not be permitted to work more than 8 hours on the 6th day, except in case of emergency as contemplated in § 57-407. I am not prepared to say what would constitute such an exigency in the taxicab business as would require emergency overtime employment for a female dispatcher. This determination is in the province of your office, rather than mine. In any event, however, even if such emergency exists, it is provided by § 57-407 that the employee is entitled to overtime pay only for time employed in excess of 48 hours per week. Therefore, the employee you describe would not, under any circumstances, be entitled to 7 1/2 hours overtime pay for work performed on the 6th day.

I trust this opinion answers your questions on this subject.