

Opinion No. 58-224

November 13, 1958

BY: OPINION OF FRED M. STANDLEY, Attorney General Joel B. Burr, Jr., Assistant Attorney General

TO: Mr. E. P. Corcoran, Chief Inspector, N.M. Plumbing Administrative Board, 307 Lead Ave., S.W., Albuquerque, New Mexico

QUESTION

QUESTIONS

1. Is the term "softener" as found in Section 67-22-1 (g) of the N.M.S.A., 1953 Compilation, as amended, applicable to the type of fixture installed in buildings, structures and premises, whose only function is to change hard water to soft water by chemical action?
2. Would the installer of a water softener be exempted from the provisions of Sections 67-22-11 and 13 of the act by Section 67-22-11 (a) if the installation necessitated the cutting of the water lines in order to install rental (portable) water softeners?
3. If requested to do so, could the office of the Plumbing Administrative Board issue an Annual Permit to firms, persons, or corporations, possessing a Specialty License to install water softeners?

CONCLUSIONS

1. See opinion.
2. No.
3. Yes, if all requirements of Sec. 67-22-12, N.M.S.A., 1953 Comp., 1957 Pocket Supplement, are complied with.

OPINION

ANALYSIS

Sec. 67-22-11, N.M.S.A., 1953 Comp., 1957 Pocket Supp., requires that a permit be obtained before any plumbing, **fixtures**, or consumers' gas piping shall be installed, within any building, structure or premises, publicly or privately owned.

The term "fixtures" is defined in the definition section of the Act, being Sec. 67-22-1, N.M.S.A., 1953 Comp., 1957 Pocket Supp., as follows:

"(g) The word 'fixtures' shall mean and include closet bowls, lavatories, bath tubs, showers, kitchen sinks, laundry trays, hot water tanks, **softeners**, urinals, slop sinks, shower pans, drinking fountains, water compressors, water coolers, any system of sewage disposal and such other similar fixtures used in plumbing as shall be designated by the plumbing administrative board." (Emphasis ours)

You will note that water softeners are considered fixtures for purposes of the Act and their installation is regulated. As to what type of mechanical device is to be considered a water softener, this is a factual determination that must be made by the Plumbing Administrative Board. The Board is given the duty of administering and enforcing all the provisions of the Act. It has trained personnel at its disposal and is in a better position to make such a determination than are we. It is, therefore, our opinion, and you are so advised, that subject to conditions of reasonableness, the Board has the power to determine whether a fixture whose only function is to change hard water to soft water by chemical action is a water "softener" as that term is used in the Act.

In answer to your second question, your attention is directed to Sec. 67-22-11(a), N.M.S.A., 1953 Comp., 1957 Pocket Supp., which, it might be argued, exempts the installation of portable water softeners from the permit requirements of the Act. We think not. This section provides that no permit shall be required to execute any of the following classes of work:

"(a) Minor repair work, the replacement or repair of faucets, taps, and jets, or **the connection of portable equipment to suitable connections or inlets which have been permanently installed.**" (Emphasis ours)

Your question states that the installation in question would necessitate the cutting of the water lines in order to install rental (portable) water softeners. In our opinion, the exemption in question exempts only the connection of portable equipment to suitable connections which have been previously installed and are of a permanent nature. It would not apply to an installation of portable equipment which would necessitate additional work of a professional nature, (such as the installation of suitable connections) other than the mere connection of the portable equipment to the water line. Your second question is, therefore, answered in the negative.

And lastly, our study of the Act reveals no prohibition against the issuance of an Annual Permit to holders of Specialty Licenses to install water softeners, so long as all the requirements found in Sec. 67-22-12, N.M.S.A., 1953 Comp., 1957 Pocket Supplement, are complied with.