

Opinion No. 59-97

August 12, 1959

BY: HILTON A. DICKSON, JR., Attorney General

TO: Mr. E. P. Corcoran Chief Inspector Plumbing Administrative Board 307 Lead Avenue, SW Albuquerque, New Mexico

{*155} This is in response to your recent request for an opinion on the following:

Does Section 5, Laws of 1959, Chapter 219, allow a person to install and/or repair plumbing to be used by him or for the use of his family, contrary {*156} to Sections 67-22-10, 67-22-11 and 67-22-13 of the N.M.S.A., 1953 Compilation, as amended?

It is my opinion that Section 5, Chapter 219, Laws of 1959, does not permit such a person to do his plumbing without conforming to the provisions of Sections 67-22-10, 67-22-11 and 67-22-13, as amended.

These Sections make all installation and repair subject to permit and inspection and provide that the person doing the work meet certain standards in the material used.

The controlling exception in the plumbing administrative act is to be found in Section 67-22-2, subsection (c), which provides:

"The provisions of this act shall not prohibit an individual from installing, altering or repairing plumbing or plumbing fixtures in a single family dwelling owned and occupied by him or require a license from an individual doing such work on such premises; provided however all such work must be done in conformity with all other provisions of this act and the orders, rules and regulations of the board."

Upon examination of the above quoted section, we see that the Legislature did provide for a partial exemption in such cases. They have provided that such a person does not have to obtain a license; but this section does require conformity with the remainder of the act and with the rules, orders and regulations of the plumbing board.

The reason for compliance with the requirements for obtaining a permit, using materials of prescribed standards and undergoing inspection is obviously directed to the protection of the general health and welfare of the public. This is a valid exercise of the police power of the state.

These provisions are not altered by Section 5 of the 1959 Act inasmuch as it is clear that all the Legislature intended to do in this section is to free the exempted class of persons from obtaining a plumber's license and did not intend to exempt that person from complying to certain standards of material and workmanship.

By B. J. Baggett

Assistant Attorney General