

Opinion No. 44-4610

November 3, 1944

BY: C. C. McCULLOH, Attorney General

TO: Mr. A. E. Joiner, State Labor Commissioner, Santa Fe, New Mexico

I have your letter of November 3, 1944 requesting an opinion concerning the type of penalty employees may not be subjected to under the provisions of Section 56-705 for absenting themselves from their employment for not more than two hours in order to vote on election day. Section 56-705 provides:

"Any registered elector may on the day of election absent himself from any service or employment in which he is then engaged, for two (2) hours, between the time of opening and closing of the polls, for the purpose of voting and shall not be liable to any penalty therefor, but the employer may specify the hours during which such employee may absent himself; and any person or corporation who shall refuse such right to any employee shall be deemed guilty of a misdemeanor, and shall be punished by a fine of not less than fifty dollars (\$ 50.00) nor more than one hundred dollars (\$ 100)."

It is my opinion that this provision means that employees who are registered electors may under the conditions enumerated in the above quoted section absent themselves from their employment for two hours without having their pay in any way docked or decreased.

By HARRY L. BIGBEE,

Asst. Atty. General