

Opinion No. 45-4796

September 28, 1945

BY: C. C. McCULLOH, Attorney General

TO: Mr. Eugene Allison, Chairman State Corporation Commission Santa Fe, New Mexico

{*137} We are in receipt of your letter of September 25, 1945, in which you state that the Corporation Commission has, in its employment, more than four regular employees; that most of the employees perform office work, but occasionally have to handle voluminous files and electrically operated machines; and that some of the employees, on occasion, travel over the highways in motor vehicles while engaged in the performance of their duties.

In view of this situation, you ask our opinion as to whether or not the employees of the State Corporation Commission come within the Workmen's Compensation Act (Sections 57-901 to 57-932 of the N.M. 1941 Compilation), or the Occupational Disease Act (Chapter 135 of the Laws of 1945).

Section 57-902 of the N.M. 1941 Compilation, relating to the Workmen's Compensation Act, provides, in part, as follows:

"The state * * * employing workmen in any of the extrahazardous occupations or pursuits hereinafter named or described * * * shall become liable to, and shall pay to any such workman injured by accident arising out of and in the course of his employment in any such occupation and pursuit, * * *"

Section 57-910 of the N.M. 1941 Compilation names and describes the extra-hazardous occupations to which the Workmen's Compensation Act applies. None of the pursuits named therein cover the kind of employment referred to by you in your letter.

The Court, in construing this section, in *Koger v. A. T. Woods, Inc.*, 38 N.M. 241, held that the occupations defined in Section 57-910 were exclusive, and that the Workmen's Compensation Act had no application to other hazardous pursuits.

In view of the foregoing, it is my opinion that the employees of the State Corporation Commission are not covered by the Workmen's Compensation Act.

Turning now to Chapter 135 of the Laws of 1945, it is observed that Section 2 provides, in part, as follows:

"* * * The following employers, when the conditions and hazards inherent in the occupation involved are such as to expose the employees to any of the hazards of

diseases listed in Section 20 of this Act, shall be subject to the provisions of this Act:
The state * * *

Section 20 of this Act lists the various occupational diseases covered by the Act. From a layman's examination of this section, it would appear that none of the employees of the Corporation Commission could be exposed to such diseases.

In view of the foregoing, it is my opinion that Chapter 135 of the Laws of 1945 has no application to employees of the State Corporation Commission.

By ROBERT W. WARD,

Asst. Atty. General