

**Engineers, Operating in Remote Districts. Boiler Inspector,
Granting License in Remote Districts. License, of Engineers
in Remote Districts.**

A city in which an assistant boiler inspector is permanently stationed is not a remote district within the meaning of Section 1657, Revised Codes.

Helena, Montana, February 21, 1910.

Hon. J. H. Dailey,
State Boiler Inspector,
Helena, Montana.

Dear Sir:—

I am in receipt of your letter of February 21, in which you request an opinion construing section 1657, revised codes, in connection with the following facts, to-wit:

“In Butte recently the engineers holding state licenses have ‘refused to work,’ and I wish to be advised if, under such circumstances, the owners, renters and users of steam engines in that district come under the provisions of section 1657 and are entitled to employ unlicensed men for the space of four weeks. In other words, does Butte come under the description of section 1657 as a remote district.”

You also state that under the customs, rules and regulations of your office one of your assistant boiler inspectors is stationed in the city of Butte, for the convenience of the department and the expeditious handling of the work.

Section 1642 provides that:

"The inspector of boilers must have his office at the seat of government, and must adopt rules as nearly uniform as possible for the inspection of steam boilers, and prescribe the nature and extent of the examination of applicants for licenses and adopt such rules for the issuing thereof as are required by the provisions of this article."

As there is no provision in the law stating where the assistant boiler inspectors must be stationed, it is my opinion that you have full authority under the provisions of said sections 1642, quoted above, to make rules and regulations in the management of your office, which require one of your assistants to be stationed at some other point than the seat of government, and that your rule requiring one of your assistants to be stationed at Butte is a proper and valid exercise of your authority, and necessary to properly "carry into effect the provisions" of the law relating to the inspection of boilers and examination of engineers.

Section 1657, revised codes, reads as follows:

"It is unlawful for any person in the state to operate a stationary boiler or steam engine other than railroad locomotives or other engines and boilers exempted in section 1655 (566) of this article, without a license granted under the provisions of this article. The owner, renter, or user of the steam engine or boiler is equally liable for violations of this section. But in case of accident, sickness, refusal to work, or any unforeseen prevention of the licensed engineer employed by any owner, renter or user of a steam engine or boiler, operated in remote districts, which would retard the work to be performed, the owner, renter or user may, for the space of four weeks, employ any person not having a license, whom he may consider competent, to run the engine or boiler. The person so employing the unlicensed engineer must immediately notify the inspector or assistant inspector."

The only question for determination in construing the above law is whether, under the facts as they exist, the city of Butte is a "remote district" within the meaning of said section 1657.

It is apparent that the term "remote districts," as used in said section relates to districts situated long distances from points at which examination for licenses may be had by engineers desiring to take the same, it being the intention of such law to prevent forced closing down of engines or boilers where the licensed engineers become sick or refuse to work, because of the fact that it is impossible to speedily procure another licensed engineer, or to have ready access to the boiler inspector or his assistants whereby other engineers may promptly take the examination and procure a license.

However, in view of the fact that the state boiler inspector keeps one of his assistant stationed in the city of Butte, who has full power

and authority to examine engineers and to issue licenses to them, we cannot hold that steam engines or boilers in Butte are "operated in remote districts," for it is apparent that engineers desiring to run engines and boilers there have as good opportunities to speedily take an examination as if such engines and boilers were situated in the state capitol where the boiler inspector maintains his office.

Therefore, in our opinion, said section 1657 does not authorize the employment of unlicensed engineers for a period of four weeks in the city of Butte.

However, as we understand from your letter that at present there is an urgent demand for the examination and licensing of engineers in such city, it might be advisable for you to co-operate for the time being with your assistant in conducting examinations in Butte, or to have your second assistant go over there for the purpose of assisting in the examination of engineers. This suggestion is made in order to overcome any possible question as to the inability of engineers to speedily secure licenses at this time.

Very truly yours,

ALBERT J. GALEN,

Attorney General.