

VOLUME NO. 38

OPINION NO. 60

DEPARTMENT OF PROFESSIONAL & OCCUPATIONAL LICENSING -
Licensing requirements, modular home factory workers;
LICENSES, OCCUPATIONAL & PROFESSIONAL - Licensing require-
ments, modular home factory workers;
PLUMBERS AND PLUMBING - Licensing requirements, modular home
factory workers;
MONTANA CODE ANNOTATED - Sections 37-69-101, 37-69-103,
37-69-301.

HELD: Montana factory workers who install, at the
factory, plumbing in modular homes which are to be
located "in any incorporated city, town, or in any
other area served by a public water supply or a
public sewer system in this state," must be
licensed as plumbers under Title 37, chapter 69,
MCA.

4 January 1980

Ed Carney, Director
Department of Professional and
Occupational Licensing
42½ North Last Chance Gulch
Lalonde Building
Helena, Montana 59601

Dear Mr. Carney:

You have requested my opinion concerning whether Montana factory workers who install, at the factory, plumbing in modular homes must be licensed as plumbers under Title 37, chapter 69, MCA.

The licensing requirement you refer to is codified in section 37-69-301, MCA, which provides in pertinent part:

Any person working at the field of plumbing in any incorporated city, town, or in any other area served by a public water supply or a public sewer system in this state, either as a master plumber or as a journeyman plumber...shall first secure a state license....

According to this statute, three factors determine when a license is required. First, the activity under consideration must fall within the "field of plumbing" as that term is defined in the code. Second, the work must be accomplished "in any incorporated city, town, or in any other area served by a public water supply or a public sewer system in this state" as that phrase is contemplated in the statute. Finally, the person must be working as a master or journeyman plumber.

Turning to the first factor, "field of plumbing" is defined in section 37-69-101(3), MCA, as follows:

(3) "Field of plumbing" means the business, trade, or work having to do with the installation, removal, alteration, or repair of plumbing and drainage systems or parts thereof.

Clearly this definition encompasses the type of work done by Montana factory workers who install plumbing in modular homes.

The second factor is more difficult to apply to a factory situation because, unlike conventional housing, modular homes are built in one place and thereafter located in another. For purposes of licensing, however, the statutory references to "public water supply" and "public sewer system" indicate that the relevant consideration is a home's ultimate location. Therefore, the second factor is satisfied if the modular home in question is to be finally

located "in any incorporated city, town, or in any other area served by a public water supply or a public sewer system in this state."

The final factor to consider is whether the person performing the work is working "either as a master plumber or as a journeyman plumber." Master plumber is defined in section 37-69-101(5), MCA, as follows:

(5) "Master plumber" means a person who is authorized by this chapter to plan, estimate, bid, contract for, and supervise plumbing work.

Journeyman plumber is defined in section 37-69-101(4), MCA, as follows:

(4) "Journeyman plumber" means a person who is authorized to make installation of all sanitary plumbing and potable water supply piping and appliances connected thereto.

Both terms described persons who are "authorized" to do certain types of work and in each context the term "authorized" apparently means "authorized by this chapter." But this definition, if read in the context of section 37-69-301, MCA, would result in the illogical conclusion that only those persons already licensed would be subject to the licensing requirement. Section 37-69-103, MCA, which makes it unlawful for unlicensed persons to engage in the field of plumbing, demonstrates that this result was not intended by the Legislature. Consequently, consistent with the provision of section 37-69-101, MCA, which provides that the statutory definitions apply "[u]nless the context requires otherwise," I conclude that the requirement that a person be working "either as a master plumber or as a journeyman plumber" refers to any person performing those tasks which this chapter would authorize him to perform if he were licensed.

THEREFORE, IT IS MY OPINION:

Montana factory workers who install, at the factory, plumbing in modular homes which are to be located "in any incorporated city, town, or in any other area served by a public water supply or a public sewer system in this state," must be licensed as plumbers under Title 37, chapter 69, MCA.

Very truly yours,

MIKE GREELY
Attorney General