

Opinion No. 56-6364

January 19, 1956

BY: RICHARD H. ROBINSON, Attorney General

TO: Mr. Homer C. Pickens, Director, State Department of Game and Fish, Santa Fe, New Mexico

In your letter of January 10, 1956, you ask our opinion as to whether or not you have any discretion as to the withdrawal of hunting license privileges where persons have been convicted of careless or reckless handling of firearms while hunting or in a game area, and where injury or death by gunshot has resulted from such violation.

The matter is covered by Section 40-17-15, N.M.S.A., 1953 Compilation, which provides as follows:

"In the event any person, contrary to the provisions of section 1 of Chapter 185 of the Laws of 1951 (40-17-12), shall injure another by gunshot wound or wounds, the game warden **shall withhold all hunting license privileges** for a period of ten (10) years, and if any such accident results in the death of another person, all hunting license privileges **shall be withheld forever** from the person causing such death. No hunting license privileges shall be withheld until final conviction under the provisions of section 1 of this act (40-17-13), but **after final conviction the withholding of license privileges shall be mandatory.**" (Emphasis Ours.)

Your attention is particularly directed to the underlined portions of the above quoted statute. By virtue of them, you have no choice but to withdraw hunting license privileges from persons so convicted. Your action here is no more discretionary than is the revoking of a driver's license by the Motor Vehicle Commissioner after a conviction for the offense of driving while under the influence of intoxicating liquor.

We trust the foregoing sufficiently answers your inquiry.

By: Walter R. Kegel

Asst. Atty. Gen.