

Opinion No. 57-242

September 26, 1957

BY: OPINION OF FRED M. STANDLEY, Attorney General Robert F. Pyatt, Assistant Attorney General

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

QUESTION

QUESTIONS

1. Could a person in the armed forces, permanently assigned to New Mexico, be required to furnish a certificate in compliance with § 11, 53-3-1, after being stationed in the state for six months?
2. If the answer is positive to the above question, would military personnel, who had been stationed in New Mexico in excess of six months, purchased a home, voted and paid New Mexico state income tax on their service income, be required to comply with the above mentioned section?

CONCLUSIONS

1. Yes.
2. Yes.

OPINION

ANALYSIS

Section 53-3-1 (11), N.M.S.A., 1953 Compilation, 1957 Supplement, is the subsection the interpretation of which you seek and it reads as follows:

"Members of the armed forces of the United States, permanently assigned to military installations within the boundaries of the state of New Mexico shall be considered as bona fide residents of this state for the purpose of obtaining hunting and fishing licenses, provided that such licenses shall be issued only upon presentation by the applicant of a certificate by his commanding officer or designated representative certifying as to his permanent military assignment in New Mexico, which certificate shall accompany the application."

In summary, it provides that members of the armed forces who are permanently assigned to military installations in New Mexico shall be considered as bona fide residents for the purpose of obtaining hunting and fishing licenses. However, you will

notice that this subsection contains a proviso to the effect that such licenses for such members of the armed forces shall only be issued upon presentation by the applicant of a certificate by his commanding officer or representative certifying as to the applicant's permanent military assignment in New Mexico. You will observe that the proviso contains no language which would limit its effect in point of time. In other words, subsection 11, together with the proviso thereto, in our opinion, would be applicable to qualified military personnel applying for hunting and fishing licenses at all times, irrespective of how long they had been on military assignment in New Mexico.

Such reasoning would be applicable not only to one stationed in New Mexico for six months but would be applicable as well to one stationed in New Mexico for that time who had also purchased a home, voted in New Mexico and paid state income tax. This opinion in no way conflicts with Opinion of the Attorney General No. 57-228, dated September 10, 1957.