

**Opinion No. 57-228**

September 10, 1957

**BY:** OPINION OF FRED M. STANDLEY, Attorney General Santiago E. Campos,  
Assistant Attorney General

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

**QUESTION**

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May a person who is a bona fide resident of this State procure a resident hunting license prior to his having resided in this State for a period of six months?

CONCLUSION

No.

**OPINION**

ANALYSIS

The pertinent statute, Section 53-3-1 (6), N.M.S.A., 1953 Compilation, Pocket Supplement, in part, provides:

"Any citizen of the United States who has been a bona fide resident of this state, or who has actually lived within the exterior boundaries of this state, for the six (6) months immediately preceding the date of application therefore shall be entitled to procure a resident hunting or fishing license. . . ."

The statute is somewhat ambiguous and it could be contended that under it a bona fide resident could acquire a resident license irrespective of the fact that he had not been a resident of this State for six months preceding the date of his application. Under this interpretation the clause containing the six months provision would be viewed as applying only to that group of persons who are not bona fide residents of the State.

However, a consideration of the legislative history of this statute resolves the ambiguity in favor of the interpretation wherein the six months provision applies to both groups, i.e., bona fide residents as well as others not residents in the legal sense but who nonetheless live here.

Prior to 1949 there was no question but that a resident had to be such for six months before he was eligible for resident hunting and fishing privileges. And the six months requirement had been in effect since 1912. Section 12, Chapter 85, Laws 1912.

Immediately prior to the 1949 Session of the Legislature the pertinent part of Section 53-3-1 (6), read:

"Any citizen of the United States who has been a bona fide resident of this state, for the six (6) months immediately preceding the date of application therefor shall be entitled to procure a resident hunting or fishing license. . . ."

In 1949 the Legislature added between the words **state** and **for**, the clause;

"or who has actually lived within the exterior boundaries of this state, including the community of Los Alamos in Sandoval County,"

And there was reason for the addition of this clause. On September 21, 1948, the Supreme Court of this State had decided that upon lands purchased or condemned by the Federal government within the community of Los Alamos, legal residence could not be established. *Arledge vs. Mabry*, 53 N.M. 303.

By the addition of the clause above, it is our opinion that the Legislature was predominantly concerned with the extension of resident hunting and fishing privileges to the people of the Los Alamos community who could not otherwise acquire legal residence within this State, provided only that they live here the same period of time which had traditionally been required of those who were legal residents of the State -- six months.

That the language employed to accomplish this result was placed in such a position as to create an ambiguity in the statute is regrettable. But we are convinced that the unfortunate choice of position for placement of language intended to achieve one result did not also have the effect of obliterating a requirement which had been in effect since statehood. We ascribe to the clause no greater or different effect than that necessary to accomplish an evident legislative purpose.

The 1955 Legislature deleted the language "including the community of Los Alamos in Sandoval County" from the 1949 version of Section 53-3-1 (6). However, for the purposes of this opinion, we consider this immaterial. That a broader class of people than Los Alamos residents benefited from legislation tailored to their needs does not detract, we believe, from our analysis above.