

Opinion No. 57-76

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BY: OPINION OF FRED M. STANDLEY, Attorney General Fred M. Calkins, Jr.,
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TO: Robert R. Salazar, Commissioner, Motor Vehicle Department, Bureau of Revenue,
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QUESTIONS

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Article 24 of the Motor Vehicle Code requires the suspension of a motor vehicle license until a judgment taken against the motorist for personal or property injuries is satisfied. If the motorist files a voluntary action in bankruptcy and obtains a discharge, is he entitled to restoration of his driving privileges?

CONCLUSION

No.

OPINION

ANALYSIS

As indicated above, Article 24 of the Motor Vehicle Code, on the responsibility of an owner or operator of a motor vehicle provides for the suspension of his vehicle license and the continuation of such suspension until judgments are paid or proof of financial responsibility is given. Section 64-24-78, N.M.S.A., 1953 Comp., Pocket Supplement, provides further:

"A discharge in bankruptcy following the rendering of any judgment shall not relieve the judgment debtor from any of the requirements of this act (64-24-42 to 64-24-104)."

In *Farmers Insurance Exchange v. Ledesma et al*, 214 Fed. 2d 495, the Court, after stating a number of sections of the Financial Responsibility Act, said:

"The purpose of the Act is to provide protection to the public from injury and damage resulting from the operation of motor vehicles upon the public highways. The intended beneficiaries are the members of the general public who may be injured in automobile accidents. The Act represents the considered public policy of the State, and it should be given a liberal construction to accomplish the intended objective."

As indicated above, § 64-24-78, supra, intended that a driver's license should remain revoked irregardless of whether the motorist had obtained his discharge in bankruptcy, and such is based on the considered public policy of this State.

Our research has turned up two cases directly in point with the conclusion arrived at in this opinion. In *Reitz v. Mealey*, 314 U.S. 33, the Supreme Court of the United States had before it § 94-B of the Vehicle and Traffic Law of New York. This section provides in part that one against whom a judgment is rendered for an injury resulting from the operation of a motor car, and who fails to pay it within a time designated, shall have his license and registration suspended for three years unless in the meantime the judgment is satisfied or discharged, **except by discharge in bankruptcy**. It should be noted that the New York Statute construed by the Court is very similar to the New Mexico Statute in that it provides that the judgment may not be satisfied or discharged by a proceeding in bankruptcy. The Court in this case held:

"The penalty which § 94-B imposes for injury due to careless driving is not for the protection of the creditor merely but to enforce a public policy that irresponsible drivers shall not with immunity be allowed to injure their fellow workers. The requirement of the legislation would be frustrated if the reckless driver were permitted to escape its provision by the simple expedient of voluntary bankruptcy, and, accordingly, the legislature declared that a discharge in bankruptcy should not interfere with the operation of the statute. Such legislation is not in derogation of the Bankruptcy Act. Rather it is an enforcement of permissible state policy teaching highway safety."

The Court further held that the above action was consistent with due process of the law and not in derogation of § 17 of the Bankruptcy Act.

A similar holding to the above was stated in *Munz v. Harnett*, Commissioner of Motor Vehicle Bureau, 6 Fed. Supp. p. 158. (See also 108 ALR 1166.)

By way of conclusion, it is the opinion of this office that a motorist can not obtain the restoration of his driver's license by obtaining a discharge of the judgment taken against him in the bankruptcy court.