

Opinion No. 60-233

December 27, 1960

BY: OPINION of HILTON A. DICKSON, JR., Attorney General

TO: Mr. Benny Sanchez Commissioner Department of Motor Vehicles Santa Fe, New Mexico

QUESTION

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When an applicant has erroneously registered his vehicle twice and two sets of license plates purchased, is he, upon request, entitled to a refund for the second set issued?

CONCLUSION

Yes.

OPINION

{*657} ANALYSIS

The answer to the above question is furnished in part by Section 64-11-11 (b), N.M.S.A., 1953 Comp. This subsection reads as follows:

"Whenever the Division through error collects any fee not required to be paid hereunder, the same shall be refunded to the person paying the same."

The above section authorizes the Motor Vehicle Division to refund any fees erroneously collected. The law provides that only one registration and one set of license plates shall be required for each motor vehicle. In the event two applications are submitted and fees collected therefor, the second application is clearly erroneous and the sum collected therefor should be refunded. The language providing therefor makes no distinction as to whether the error is committed by the applicant or the Division. The controlling factor is that error occurred and upon discovery of the error, a refund is authorized.

A further problem presents itself in ascertaining from what funds the refunds may be made. However, we believe the solution may be found in Section 64-11-12, N.M.S.A., 1953 Comp., which relates to the disposition of the fees received and collected pursuant to the Uniform Motor Vehicle Act. That section reads in part as follows:

". . . Not to exceed four per cent (4%) thereof shall be covered into the motor vehicle fund, and used to defray . . . the discharge of such other duties as may be imposed upon the division by law. . . ."

It is our opinion that the refunds referred to above are a duty imposed upon the division by the law and thus should be made from the four per cent of the fees collected.

By: Thomas O. Olson

First Assistant Attorney General