

## Opinion No. 62-113

September 4, 1962

**BY:** OPINION OF EARL E. HARTLEY, Attorney General Oliver E Payne, Assistant Attorney General

**TO:** Mr. Robert H. Sprecher, Assistant District Attorney, Fifth Judicial District, Roswell, New Mexico

### QUESTION

#### QUESTIONS

1. A non-resident military officer has a wife who uses his car in her employment, driving it back and forth some considerable distance each day to her work at one of the Atlas Missile Sites surrounding Roswell. Is this car exempt from New Mexico registration?
2. A non-resident Army man stationed in El Paso Texas, allows his seventeen year old son to use the car in his employment in New Mexico. The boy lives and works in New Mexico except for weekends when he drives to El Paso. Is this car exempt from New Mexico registration?

#### CONCLUSIONS

1. No, not after thirty days.
2. No, not after thirty days.

### OPINION

#### ANALYSIS

In 1959 our statutes relative to motor vehicle registration requirements for non-residents were revamped by the Legislature. Presumably this change was due to the Supreme Court's ruling in **State v. Pate**, 47 N.M. 182, 138 P. 2d 1006, which held that certain of the non-resident motor vehicle registration provisions in effect at that time were unconstitutional.

Section 64-6-3, N.M.S.A., 1953 Compilation, provides that armed services personnel may operate their personal passenger vehicles in this state subject to the provisions of Section 64-6-1, N.M.S.A., 1953 Compilation, which is the statute governing registration of non-residents' motor vehicles.

Section 64-6-1, *supra*, permits a non-resident owner of any foreign vehicle of a type otherwise subject to registration to operate or allow the use or operation of the vehicle in

this State for a period of thirty days without registering it. After the thirty-day period, the vehicle is to be registered. We do not believe the Soldiers' and Sailors' Civil Relief Act, 50 U.S.C.A. 501 et seq., either does or was intended to exempt motor vehicles owned by non - resident military personnel from registration in this State.

The answer to your second question can be found in Opinion No. 59-71, which held that non-resident truckers could not avoid the necessity of registration simply because on weekends the vehicles were driven to Texas. The same principle is here involved. The son of the vehicle owner lives in New Mexico during the work-week and uses the vehicle to drive to and from work. On weekends he drives to Texas.

It is our opinion that at the expiration of the thirty-day period the car must be registered in New Mexico.