

Opinion No. 68-113

November 12, 1968

BY: OPINION OF BOSTON E. WITT, Attorney General

TO: Lawrence H. Prentice Commissioner of Motor Vehicles Department of Motor Vehicles Santa Fe, New Mexico 87501

QUESTION

QUESTIONS

1. May a motorist who is involved in an accident and suspended originally be reinstated after the one year period of suspension has elapsed, provided, that no legal action is instituted within one year and then be resuspended when a certified judgment is rendered, based on legal action filed after a period of more than one year has elapsed from the date of the original suspension?
2. May a motorist be suspended twice for the same accident?

CONCLUSIONS

1. Yes.
2. Yes.

OPINION

{*182} ANALYSIS

This opinion assumes that the motorist does not, at any time, post security as provided for in Section 64-24-56 (A) (1) N.M.S.A., 1953 Compilation (P.S.). Section 64-24-46 (C), N.M.S.A., 1953 Compilation provides:

{*183} "(c) The division within 50 days after receipt of report of any accident referred to herein and upon determining the amount of security to be required of any person involved in such accident or to be required of the owner of any vehicle involved in such accident shall give written notice to every such person of the amount of security required to be deposited by him and that an order of suspension will be made as hereinafter provided upon the expiration of 10 days after the sending of such notice unless within said time security be deposited as required by said notice."

This section contemplates a suspension as a routine matter upon the satisfaction of certain conditions, regardless of whether any legal action is taken as a result of the

accident. See also Section 64-24-50, N.M.S.A., 1953 Compilation which compliments Section 64-24-46 (c), supra.

Section 64-24-56 (A), N.M.S.A., 1953 Compilation (P.S.) provides for the duration of suspensions:

"Duration of suspension. -- A. Unless a suspension is terminated under other provisions of this act [64-24-42 to 64-24-104], any order of suspension by the division under this act shall remain in effect and no license shall be renewed for, or issued to any person whose license is so suspended and no registration shall be renewed for or issued to any person whose vehicle registration is so suspended until:

(1) Such person shall deposit and file or there shall be deposited and filed on his behalf the security and proof of financial responsibility required under this act; or

(2) One [1] year shall have elapsed following the date of such suspension and evidence satisfactory to the division has been filed with it that during such period no action for damages arising out of the accident resulting in such suspension has been instituted. * * *"

Thus it is possible that an original suspension under Sections 64-24-46 (c) and 64-24-50, supra, will be lifted if one year has elapsed without any action for damages having been instituted.

Section 64-24-73, N.M.S.A., 1953 Compilation provides:

"Suspension for nonpayment of judgments. -- The division upon receipt of a certified copy of a judgment and a certificate of facts relative to such judgment, on a form provided by the division, shall forthwith suspend the license and registration and any nonresident's operating privilege of any person against whom such judgment was rendered, except as hereinafter otherwise provided in this act [64-24-42 to 64-24-104]."

This provision clearly contemplates a suspension after legal action. Since an automatic suspension under Sections 64-24-46 (c) and 64-24-50, supra, can only be terminated if no law suit is brought within one year, Section 64-24-56, supra, this means that the legislative intent in enacting Section 64-24-73, supra, was to provide for a second suspension. Therefore, the answer to both of your questions is "Yes."

By: Roy G. Hill

Deputy Attorney General