

## Opinion No. 68-16

February 5, 1968

**BY:** OPINION OF BOSTON E. WITT, Attorney General

**TO:** Honorable Edith H. Vesely State Senator Legislative-Executive Building Santa Fe, New Mexico

### QUESTIONS

Are motor vehicles that are used in New Mexico by nonresident college students who pay nonresident state tuition but who are not gainfully employed in New Mexico and that are owned by the students' parents and licensed in the state of their parents' residence, subject to registration in New Mexico?

### CONCLUSION

Yes, if the motor vehicle is used in New Mexico for more than thirty days.

### OPINION

#### {\*31} ANALYSIS

Section 64-3-2, N.M.S.A., 1953 Compilation provides in part that:

Every motor vehicle, . . . when driven or moved upon a highway shall be subject to the registration and certificate of title provisions of this act except:

(a) Any such vehicle driven or moved upon a highway in conformance with the provisions of this act relating to . . . nonresidents;

Section 64-6-1A, N.M.S.A., 1953 Compilation provides that:

A nonresident owner owning any foreign vehicle of a type otherwise subject to registration hereunder may use or operate **or permit the use or operation** of such vehicle within this state for a period of thirty days without registering such vehicle in, or paying any fees to this state, subject to the condition that such vehicle at all times during this thirty day period, when operated in this state, is duly registered in and displays upon it valid registration plate or plates issued for such vehicle in the place of residence of such owner. The commissioner of motor vehicles shall promulgate and publish as required by law, Rules and regulations necessary to implement this section. (Emphasis added)

It is obvious that under Section 64-3-2 and 64-6-1A, supra gainful employment in this State either of the owner or of the user of the motor vehicle is not a condition for

registration of the motor vehicle. Moreover, if the motor vehicle is used or operated in this State for more than thirty days, the residency of the owner or of the user is not a condition for registration of the motor vehicle. {32} Finally, it is obvious that the motor vehicle of a nonresident is subject to registration if he permits another person to use or operate it in New Mexico in excess of thirty days. Opinion of the Attorney General No. 62-43, dated September 4, 1962.

It is therefore our opinion that motor vehicles that are used or operated in New Mexico for more than thirty days by college students who pay nonresident tuition but who are not gainfully employed in New Mexico are subject to registration in New Mexico even though the owner of the motor vehicle resides outside New Mexico and has registered the motor vehicle in his state of residency. Opinion of the Attorney General No. 67-113, dated October 13, 1967. It is important to note that there are other opinions of this office dealing with nonresident military personnel stationed in this State that are controlling on the question of whether these persons must register their motor vehicles in New Mexico. Opinion of the Attorney General No. 59-109, dated August 17, 1959.

By: Edward R. Pearson

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