

Opinion No. 69-71

July 3, 1969

BY: OPINION OF JAMES A. MALONEY, Attorney General Gary O'Dowd, Deputy Attorney General

TO: Mr. W. K. Aldridge, Deputy State Fire Marshall, P.O. Drawer 1269, Santa Fe, New Mexico

QUESTIONS

QUESTIONS

May members of a volunteer fire department use flashing red lights, visible from the front, on their privately owned vehicles while responding to a fire or other related alarm, in light of Section 64-14-4(E) and Section 64-20-36 (E), N.M.S.A., 1953 Compilation, as revised by Chapter 69 of the Session Laws of 1969?

CONCLUSION

Yes.

OPINION

{*108} ANALYSIS

Section 64-20-36 (E), N.M.S.A., 1953 Compilation, as revised by Chapter 69, Laws of 1969, reads as follows:

"E. Only fire department vehicles, law enforcement agency vehicles and ambulances shall display flashing red lights visible from the front of the vehicle. All other vehicles authorized by the Motor Vehicle Code to display flashing lights visible from the front of the vehicle may use any other color of light that is visible."

It has been questioned whether members of a volunteer fire department may use flashing red lights on their privately owned vehicles in light of the above quoted section.

{*109} There can be little doubt that a privately owned vehicle of a volunteer fireman could be designated as an authorized emergency vehicle as defined by Section 64-14-4 (E), N.M.S.A., 1953 Compilation, as amended by Chapter 69, Laws of 1969. The question is whether such a vehicle could be defined as a "fire department vehicle" so as to be able to use flashing red lights, rather than some other color of lights on the front of the vehicle as provided in Section 64-20-36 (E), supra.

Municipalities are authorized to provide for volunteer fire departments under Section 14-17-9, N.M.S.A., 1953 Compilation. Such a volunteer fire department is made up of, and consists of, the volunteer members who man such a department. Thus, it would seem that vehicles belonging to the members of a volunteer fire department which are used by them in carrying out their duty as a volunteer firemen, could properly be defined as fire department vehicles.

It is the opinion of this office that privately owned vehicles, used by members of a volunteer fire department in carrying out their duties in connection with such a fire department, may properly be defined as "fire department vehicles", and as such are authorized to have flashing red lights on the front as provided for by Section 64-20-36 (E), supra.