

## Opinion No. 71-57

April 21, 1971

**BY:** OPINION OF DAVID L. NORVELL, Attorney General

**TO:** The Honorable Turner W. Branch New Mexico State Representative Suite 1400  
National Building 505 Marquette, N.W. Albuquerque, New Mexico 87101

### QUESTIONS

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Paragraph numbered C of Chapter 37, Laws 1971 authorizes the operator of a motor vehicle to turn right at a red light after first stopping and yielding the right of way to pedestrians and vehicles lawfully in or approaching the intersection. In view of paragraph numbered F in the same law, will the right turn after stopping provision be effective?

#### CONCLUSION

Yes.

### OPINION

#### {\*80} ANALYSIS

Some background information may be helpful. In 1969 Section 64-16-5, N.M.S.A., 1953 Compilation was amended to permit, among other things, a right turn on a red stop light **when a sign is in place** permitting such a turn. The amendment was accomplished by adding a paragraph numbered F to Section 64-16-5, **supra**.

Section 64-16-5, **supra**, was again amended by Laws 1971, Chapter 37, particularly by changing the language of paragraph numbered C therein to permit a right turn on a red light after coming to a stop. There is no requirement in this paragraph that there be a sign in place permitting such a turn. Thus the present language in Section 64-16-5, **supra**, contains an internal conflict. Paragraph numbered C permits a right turn on a red light after stopping even in the absence of a sign in place permitting such a turn. Paragraph F permits such a turn after stopping only where a sign in place permits the turn.

If paragraph F was a newly enacted provision, as paragraph C is, the later internal placement of F would probably result in it controlling over the provision placed ahead of it. **Nye v. Board of Comm'rs of Eddy County**, 36 N.M. 169, 9 P. 2d 1023. However, paragraph F is not considered to be a new provision for purposes of statutory construction. Since it now reads exactly as it did prior to the 1971 amendment to

Section 64-16-5, **supra**, it is merely a continuation of the former provision. **Dietz v. Hughes**, 39 N.M. 349, 47 P.2d 417; **State v. Thompson**, 37 N.M. 229, 20 P.2d 1030. Paragraph C is the newest statutory provision and it controls in the case of its conflict with paragraph F since it is the latest declaration of the legislative will. Sutherland, **Statutory Construction**, § 1934.

By: Oliver E. Payne

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