

## Opinion No. 73-18

February 7, 1973

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

**TO:** Honorable Leo C. Watchman New Mexico State Representative District 14 House of Representatives State Capitol Building Santa Fe, New Mexico 87501

### QUESTIONS

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1. Does House Bill 104, as written, apply to Indian land?
2. Is House Bill 104, constitutional if it does apply to Indian land?

#### CONCLUSION

1. See analysis.
2. See analysis.

### OPINION

#### {\*31} ANALYSIS

House Bill 104 does not make reference to Indian lands. It is a revision of the present licensing statute relating to game and fish, providing for additional licenses and stamps for licenses. None of the bill's amendments affect the question of whether the state game and fish laws apply to Indian lands. Therefore the question becomes, do the present state statutes relating to game and fish apply to Indian lands, and if so, are they constitutional?

It is the opinion of this office that the state has jurisdiction over the actions of non-Indians on Indian lands. **State v. Warner**, 71 N.M. 418, 379 P.2d 66 (1963), held that state courts have jurisdiction over non-Indians' criminal offenses committed on Indian reservations but not against an Indian and not involving Indian property. See also, Opinion of the Attorney General No. 6041, dated November 22, 1954. Therefore, we believe that the provisions of House Bill 104 and the existing statute it amends would apply to non-Indians on Indian lands.

We see no objection to the constitutionality of House Bill 104, as written. We are also of the opinion that the bill and the statute it amends are constitutional if, in application, Indian lands are brought into its scope via non-Indian actions.

The question of state jurisdiction over non-Indians on Indian land is presently being litigated in **State ex rel. Norvell v. Sangre de Christo Dev. Corp.** in United States District Court in Albuquerque. Therefore, an in-depth opinion on the question is futile at this point.

By: Jane E. Pendleton

Assistant Attorney General