

## Opinion No. 32-496

August 9, 1932

**BY:** Quincy D. Adams, Asst. Attorney General

**TO:** Hon. J. A. McNabb, Jr., Chief Asst. State Comptroller, Santa Fe, New Mexico.

{\*171} This is in reply to your letter of August 9, 1932. You state that the contractor who is building the new dormitory at the Indian School is hiring men to work on the same who come here from other states; that they had brought their cars with them which have been properly registered in the state of which they are citizens and are using these cars going to and from their work at the Indian School daily. You wish to know if these people should be required to buy New Mexico licenses for their automobiles.

Section 11-321 (Para. C) of the 1929 Compilation provides that nonresidents who carry on business within this state and regularly operate in such business any motor vehicle shall be required to register such vehicle. I do not believe that the men mentioned in your letter come within the provisions of this paragraph. In the first place, it is doubtful if men working as common laborers could be said to be "carrying on business," and in the second place the question arises as to whether or not they are operating their cars in such business (if it is a business) by only using them in going to and from work. A similar question has arisen in cases involving payment of workmen's compensation and some Courts have decided that a man is engaged in his employment while going to and from work. However, the general rule seems to be otherwise. See *Boyd on Workmen's Compensation*, Section 486.

Therefore, unless the persons mentioned by you can be deemed residents of this state, I think that they should be allowed to operate their automobiles for a period of six months without being required to register same.