

**Opinion No. 36-1365**

May 19, 1936

**BY:** FRANK H. PATTON, Attorney General

**TO:** Mrs. Elizabeth F. Gonzales, Secretary of State, Santa Fe, New Mexico.

{\*118} We have your letter of May 15th asking a ruling from this office as to whether you may charge a fee of \$ 3.00 where service of process on non-resident operators of motor vehicles is made upon you under the provisions of Chapter 127, Session Laws of 1931.

The said Chapter 127 provides in effect that non-resident motorists against whom suit is instituted on account of collisions or accidents in this state may be served by serving process upon you as agent for said non-resident motorist. There is no provision in the chapter whereby you are under any obligation to forward the summons served upon you to the defendant in the case. I do not see where your office makes the service in any way but rather the service is made upon you. There is no provision in the law for any fee to be charged by your office and we find no provisions under the law with reference to fees to be charged by you which would authorize you to charge a fee in this case. We are therefore of the opinion that your office has no authority to make any charge whatever in the instance above stated.

By J. R. MODRALL,

Asst. Atty. General