

**Opinion No. 39-3323**

October 27, 1939

**BY:** FILO M. SEDILLO, Attorney General

**TO:** Hon. John E. Miles, Governor of New Mexico, Santa Fe, New Mexico.

{\*120} Pursuant to conference in your office and your request for an opinion as to whether or not municipalities collecting for operators' and chauffeurs' licenses should be allowed an extra fee for said services, I desire to call your attention to Chapter 156, Section 3 (d), Laws of 1939, which reads as follows:

"The Department shall distribute to each incorporated municipality an amount equal to forty per centum of the fee received from each and every applicant to whom license is granted and who resides within such municipality, Provided, however, that the Clerk in each such municipality shall be required to receive applications for licenses to collect the proper fees thereof and to remit the same monthly to the Department, if the Department may {\*121} require, and that no part of the forty per cent (40%) shall be distributed to any municipality in which the Clerk refuses to perform the duties herein required without additional cost to any applicant or to the Department."

I especially call your attention to the part which reads:

**"And that no part of the forty per cent (40%) shall be distributed to any municipality in which the Clerk refuses to perform the duties herein required without additional cost to any applicant or to the Department."**

It is, therefore, my opinion that this section specifically prohibits the municipality from receiving any extra fee whatsoever if they desire to participate in the forty per cent distribution as stated above.

By: GEORGE LOUGEE,

Asst. Atty. Gen.