

Opinion No. 43-4332

July 8, 1943

BY: EDWARD P. CHASE, Attorney General

TO: Mr. M. A. Romero, Commissioner, Motor Vehicle Division, Bureau of Revenue, Santa Fe, New Mexico. Attention: Alfonso C. de Baca, Chief Clerk

We have your letter of July 2, 1943, wherein you request an official opinion of this office concerning whether or not you are entitled to retain the 6% of the gross receipts of money collected for you by the Division of Courtesy and Information, and turned over to your department for proper distribution and handling.

Chapter 125 of the Laws of 1943, Sections 16 and 17 provide:

"Section 16. That all monies collected for Departments of the Bureau of Revenue under the provisions of this Act, shall forthwith be remitted to the Department for which such collections are made, and by them distributed in the same manner as all other collections under their respective laws.

"Section 17. For the purpose of defraying the costs of administration of this Act, the head of each Department of the State of New Mexico for which the Department of Courtesy and Information collects any taxes provided for under the law of such Department, shall transfer to the Department of Courtesy and information **a sum equal** to the amount allowable to such Department for the collection of such taxes under the provisions of the law creating such Department."

It is noted that it is specifically provided under Section 16 that the money remitted to your department shall be distributed in the same manner as all other collections under the respective laws. This indicates that the Legislature did not have the intent of depriving you of the statutory amount which is provided that you may retain. It is further noted that the Legislature left unchanged your duties which pertain to the distribution of such amounts, and in view of this language and language which will later be called to your attention, it would seem plain that the Legislature intended for you to retain your per cent for properly handling this money.

It is noted that Section 17 provides that you shall transfer to the Division of Courtesy and Information a sum equal to the amount allowed to your department. In other words, it is provided that a similar amount shall be retained by your department as what is turned over to the Division of Courtesy and Information, otherwise, the wording of the statute would have been that you would transfer **the amount** allowable to your department, rather than providing **a sum equal to the amount**.

Hoping that the above fully answers your questions, I remain

By HARRY L. BIGBEE

Asst. Atty. General