

## **Opinion No. 66-22**

February 14, 1966

**BY:** OPINION OF BOSTON E. WITT, Attorney General Roy G. Hill, Assistant Attorney General

**TO:** Mr. Benny E. Sanchez, Commissioner, Department of Motor Vehicles, State Capitol Building, Santa Fe, New Mexico

### **QUESTION**

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Can the Department of Motor Vehicles require that a person who has been in the State of New Mexico over a period of thirty days obtain a New Mexico operator's license?

#### **CONCLUSION**

See analysis.

### **OPINION**

#### **{\*25} ANALYSIS**

Sections 64-13-38 and 64-13-39 N.M.S.A., 1953 Compilation (P.S.), provide a statutory answer to your question. The first of the mentioned sections provides in part:

"Except those expressly exempted by the Motor Vehicle Code:

(1) No person shall drive any motor vehicle upon a highway in this state unless he {\*26} has a valid license as an operator . . . under the provisions of the Motor Vehicle Code."

Section 64-13-39, *supra*, provides exemptions for certain people. Subparagraph B of that section provides as follows:

"Any person who is at least sixteen (16) years of age and who has in his immediate possession a valid operator's license issued to him in his home state or country who may operate a motor vehicle in this state only as an operator;"

We believe that "home state" in the last quoted language refers to the resident state of a vehicle operator. Consequently, we do not change our opinion from that voiced in Attorney General Opinion No. 59-48, that a non-resident driver with a valid and current driver's license issued by another state is not required to apply for an operator's license in this State. Therefore, just because a person has been in the State of New Mexico for

a period of thirty days does not mean that the Department of Motor Vehicles can require such person to obtain a New Mexico operator's license.

The Department of Motor Vehicles can require a person who has become a resident of this State to acquire a New Mexico operator's license regardless of how long or short a period he has been in the State. This is because a person who has become a resident of New Mexico and has in his possession an operator's license issued to him by another state no longer falls within the exemption in 64-13-39, supra, that is, carrying a valid driver's license from his home state. Although there is no statutory authority, we believe that the Department of Motor Vehicles, by a proper rule or regulation, can provide that new residents of the State of New Mexico have a period of thirty days in which to make an application for a New Mexico operator's license. In our opinion the Motor Vehicle Code contemplates a reasonable time in which new residents may make an application to acquire New Mexico operator's licenses, and in our opinion thirty days is not an unreasonable amount of time to allow for such application.