

Opinion No. 47-5088

October 14, 1947

BY: C. C. McCULLOH, Attorney General

TO: H. W. Beasley, Chief, New Mexico State Police, Santa Fe, New Mexico

{*96} We are in receipt of your letter of Oct. 10th in which you ask {*97} whether non-resident students attending the universities and schools in this state would be required to register motor vehicles operated by them in the State of New Mexico.

Section 68-202 of the 1941 Compilation requires every owner of a motor vehicle, before the same is operated upon any highway in this state, to obtain registration thereon, with certain exceptions. One of these exceptions is contained in Section 68-220, 1941 Compilation, as amended by Section 2, Chapter 144, Laws of 1947. Insofar as material, this section is as follows:

"(a) A tourist as herein defined, owning any foreign vehicle, which has been duly registered for the current calendar year in the state, county, or other place of which the owner is a resident and which at all times when operated in this state has displayed upon it the number plate or plates issued for such vehicle in the place of residence of such owner, may operate or permit the operation of such vehicle within this state without registering such vehicle or paying any fees to this state, during a period of three (3) months from the time such vehicle is first brought into this state.

A "tourist" within the meaning of the purview of this Act shall mean any person who enters this state from any other state, territory, or country for an indefinite period of time for purely pleasure purposes and not for the purpose of seeking, securing, accepting or engaging in gainful employment within this state, and who does not during his stay within this state secure, accept or engage in gainful employment within this state."

The definition of "Tourist" as used in this section is certainly not all that might be desired. A student would not be here purely for pleasure. Neither is he here for the purpose of seeking gainful employment.

In view of the fact that the apparent test applied as to whether a person is or is not a tourist is whether such person seeks or obtains gainful employment, it appears to me that any person who does not seek or accept gainful employment would be considered a tourist within the meaning of this act. Otherwise, persons merely passing through the state to attend to business in other states or for pleasure in other states, would be required to obtain a license as soon as they cross the state line. Also, persons coming to the state for medical attention or to attend to personal business would be required to obtain a license.

In view of the foregoing, it is my opinion that a student attending school in this state, who does not seek or accept gainful employment, would be considered a tourist within the meaning of Chap. 144, Laws of 1947, so that such student would not be required to register his motor vehicle for a period of three months.

As no other exception appears in the statute which might cover students, it is further my opinion that after a period of three months had elapsed from the time the non-resident automobile was brought into the state, the student should be required to obtain the registration of his motor vehicle.

By ROBERT W. WARD,

Asst. Atty. General