

**Opinion No. 47-5089**

October 21, 1947

**BY:** C. C. McCULLOH, Attorney General

**TO:** J. V. Gallegos Assistant District Attorney Tucumcari, New Mexico

{\*98} We are in receipt of your telegram in which you ask whether a nonresident must secure an operator's license to drive in the State of New Mexico. You also ask whether a non-resident must secure a chauffeur's license if he is employed for the principal purpose of operating a motor vehicle.

Section 68-302 is, in part as follows:

"No person, except those hereinafter expressly exempted shall drive any motor vehicle upon a highway in this state unless such person has a valid license as an operator or chauffeur under the provisions of this act. **No person shall operate a motor vehicle as a chauffeur unless he holds a valid chauffeur's license under this act.**"

Section 68-304 is, in part, as follows:

"(a) A nonresident over the age of sixteen (16) years, who has been duly licensed under a law requiring the licensing of operators or chauffeurs in his home state or country, and who has in his immediate possession either a valid operator's or chauffeur's license issued to him in his own home state or country, shall be permitted without examination or license under this act to drive a motor vehicle upon the highways of this state."

In view of the exception contained in Section 68-304, it is my opinion that a non-resident who has a valid operator's or chauffeur's license in his home state may drive as an operator without securing a New Mexico license.

On the first reading of these two sections, it would appear that a person holding a chauffeur's license could drive as a chauffeur without securing a chauffeur's license. However, such construction would make meaningless the underlined portion of Section 68-302. In view of this situation, and since the two sections, being a part of the same act, must be construed together, it is my opinion that before a non-resident may operate as a chauffeur, even though he holds a valid chauffeur's license from another state, he must secure a New Mexico chauffeur's license.

Your attention is called to the fact that Section 68-304 by paragraph (b) contains an additional exception permitting the owner or private chauffeur or authorized driver to drive the owner's car for a period of 90 days without obtaining a license, if such car has been duly registered and if such owner, driver or chauffeur has in his possession the registration card evidencing such ownership and registration.

By ROBERT W. WARD,

Asst. Atty. General