

## Opinion No. 53-5718

March 31, 1953

**BY:** RICHARD H. ROBINSON, Attorney General

**TO:** Mr. Rosendo Garcia, Director Drivers' License Bureau Bureau of Revenue Santa Fe, New Mexico

{\*113} In your letter dated March 23, 1953, you referred to Senate Bill No. 218, which will be Chapter 140, Laws of 1953, and with particular reference to § 68-308, sub-section (d) you make several inquiries. Sub-section (d) was amended to read as follows:

"(d) The department shall distribute to each incorporated municipality {\*114} an amount equal to fifty (50) percentum of the fee received from each and every applicant to whom a license is granted by any duly authorized agency within the municipality regardless of whether the said applicant resides within such municipality or not. 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 require, and that no part of the fifty per cent (50) 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."

Under the 1951 amendment this sub-section provided for distribution of fifty per cent of the fee received from each and every applicant to whom license is granted and who resided within such municipality. The language is now changed to require the distribution of fifty per cent of the fee received from each and every applicant to whom license is granted **by any duly authorized agency within the municipality regardless of whether the said applicant resides within such municipality or not.**

You state that you have state-staffed offices in Santa Fe and Albuquerque which issue drivers' licenses, in addition to those issued by the respective city clerks. You further state that in the towns of Clayton and Tatum the ports of entry issue drivers' licenses in addition to the respective city clerks, and you are wondering whether the amended law should be interpreted to mean that these respective municipalities are entitled to one-half of the fees received by the respective state-staffed offices and the ports of entry.

In view of the language of the 1953 amendment it seems apparent that the Legislature intended that the respective municipalities share in the distribution of fees received from all applicants in such municipalities regardless of the residence of such applicants and regardless of which agency receives the fees. In view of this fact it is our opinion that the four municipalities mentioned would be entitled to a distribution of the proper percentage of the fees received from all applicants in the respective municipalities, whether received by city clerks, state-staffed offices or ports of entry.

You further inquire as to the distribution of duplicate license fees and duplicate chauffeurs' badges fees and state that heretofore these fees for duplicates have not been distributed to the municipalities. Since the provision concerning issuance of duplicate licenses and badges appears in § 68-313 of the 1941 Compilation and is not connected with the section providing for distribution to municipalities your procedure with reference thereto should not be changed, and since the fees charged are nominal and perhaps only sufficient for administrative expenses in connection therewith we do not believe that the Legislature intended such fees to be distributed pursuant to § 68-308 (d), as amended.

By: C. C. McCulloh

Assist. Attorney General