

## Opinion No. 55-6150

April 26, 1955

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

**TO:** Mr. Jack Love, Assistant District Attorney, Fifth Judicial District, County Court House, Roswell, New Mexico

Your request for opinion dated April 13, 1955 has been received.

As you have noted in your letter, this office has determined that the Korean war was such conflict as came within the purview of § 72-1-11, N.M.S.A., 1953. Attorney General's Opinion No. 5660, February 4, 1953. The question now arises, and this is your inquiry, for purposes of § 72-1-11, when did the Korean conflict end?

That section provides, among other things, that in order to be entitled to the exemption a veteran must have ". . . served in the armed forces of the United States for ninety (90) days at any time during any period in which the military forces are engaged in **armed conflict** under orders of the President of the United States, . . . ." (Emphasis mine)

It should be noted that prior to the 1953 amendment to § 72-1-11 it was necessary that the United States be "officially engaged" in war before a member of the armed forces would be eligible for the exemption. The 1953 amendment has changed that as shown above and now it is only necessary that the veteran serve during the period that the United States is engaged in "armed conflict". Where it might take a formal treaty to terminate an officially declared war or a war in which the United States is officially engaged in, it now appears that with the change in terminology a cease fire will end an armed conflict. The intention of the Legislature is clear here. The 1953 amendment resulted from the conflict in Korea and the desire of the Legislature to extend the exemption to veterans of that war. That was not an officially declared war and the action there was taken upon the initiative of the President of the United States and his orders in connection therewith.

It is thus the opinion of this office that as concerns the war in Korea that conflict ended with the cease fire. Art. 2, § A, Paragraph 12 of the Korean Armistice Agreement provides that "complete cessation of hostilities in Korea" were to take place 12 hours after the agreement was signed. The agreement was signed at 1000 hours, 27 July 1953. Thus the cease fire came at 2200 hours, 10:00 o'clock P.M., on 27 July 1953. Senate Document 74, 83rd Congress, First Session, pages 98 et seq. The latter, therefore, is the time and date at which, for purposes of § 72-1-11, "armed conflict" ended in Korea.

I trust this answers your inquiry satisfactorily.

By Santiago E. Campos

Assistant Attorney General