

**Opinion No. 55-6206**

June 27, 1955

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

**TO:** Mr. Richard F. Rowley, District Attorney, Ninth Judicial District, Clovis, New Mexico

Replying to your letter of June 20th concerning the effect of Chapter 158, Laws of 1955, upon the provisions of Chapter 179, Laws of 1955, and also whether Chapter 158 prevents the State Board of Education from authorizing a driver training program until September 1, 1956, we render the following opinion:

First Chapter 158, Laws of 1955, reads as follows:

"Effective on and after September 1, 1956 public schools of this state covering the 9th and 12th grade and with an average daily attendance of twenty students or more may offer . . . classroom courses, and behind the wheel training, designed to instruct students in the safe operation of motor vehicles . . ."

The parts of Chapter 179 Laws of 1955, which is important here reads as follows:

"Section 203: What persons shall not be licensed. The division shall not issue any license hereunder; 1. To any person, as an operator, who is under the age of sixteen (16) years, except as hereinafter specifically provided. The division may, however, in its discretion issue a restricted instruction permit or a restricted license to students fourteen (14) years of age or over enrolled in a high school driver-education program approved by the State Board of Education."

We do not think that Chapter 158, Laws of 1955, has any effect upon the provisions of Chapter 179, Laws of 1955. They are not in conflict with each other inasmuch as Chapter 158 grants permission for a driving training program in school that can meet with the requirements therein set out after September 1, 1956. Chapter 179, Laws of 1955 provide for the granting of a drivers license for children who are in such program and who would otherwise be ineligible by reason of age to drive a motor vehicle even in a course offered for their training with one additional provision that the course must have the approval of the State Board of Education.

We feel that Chapter 158, Laws of 1955 grants permission for any school board to set up in their course a driver training program for the benefit of the students from and after September 1, 1956, provided they otherwise meet the requirements set out. This does not limit the power of the State Board of Education to prescribe the course of study that shall be taught in school, § 73-1-7 (C) N.M.S.A., 1953. It merely, after September 1, 1956, permits any school qualifying under the law to provide for such training program if the State Board of Education has not prescribed such program. Statutes, if at all

possible should be construed so as to harmonize all which are on the same subject matter. 82 C.J.S., Section 366 at page 801.

The Legislature must have known that many schools in the State now have driver training programs in operation at this time. In fact this would seem to be the reason that the provision quoted above from Chapter 179, Laws of 1955, were enacted into law. It created an exception in this law providing for motor vehicle operator license so that the driver training program could be carried out. Note that Chapter 179, Laws of 1955, is to be effective on July 1, 1955, more than a year prior to the time when the program allowed in Chapter 158, Laws of 1955, would start and yet there is no mention that this particular section of Chapter 179, Laws of 1955, is not to be effective immediately upon the effective date of the Act.

We also are of the opinion that the State School Board can approve a program of driver training at the present time. It has the power to do so under § 73-1-7 (C) N.M.S.A., 1953. Any program now set up or which will be set up in the future must be approved by the State Board of Education if the quoted section of Chapter 179, Laws of 1955, are claimed by one of the students in such a program -- particularly after the effective date of this law, namely July 1, 1955.

By: Paul L. Billhymer

Assistant Attorney General