

## **Opinion No. 58-48**

March 6, 1958

**BY:** OPINION OF FRED M. STANDLEY, Attorney General Fred M. Calkins, Jr.,  
Assistant Attorney General

**TO:** Honorable Natalie Smith Buck, Secretary of State, Santa Fe, New Mexico

### **QUESTION**

#### QUESTION

May license plate distributors collect a fifty (50c) notary fee from a person who purchases a license plate if such person submits a duly notarized registration certificate acknowledged by a qualified notary public?

#### CONCLUSION

No.

### **OPINION**

#### ANALYSIS

From the information supplied in the inquiry above, we are informed that several persons, when purchasing automobile licenses, have submitted a registration certificate acknowledged by a duly qualified notary public. Notwithstanding the foregoing, certain license plate distributors apparently have taken the position that since they are the franchised license plate distributors that no other notary can legally notarize signatures on the registration certificate.

We have carefully reviewed the Motor Vehicle Act and find no statutory authority giving a license plate distributor the exclusive authority to notarize signatures on the registration certificate. Lacking such authority, no additional charge can be assessed for processing the application since such a charge would be the payment of a special fee for the privilege of paying a tax or license which is not authorized by law. We fully realize that license plate distributors must rent offices, hire employees and distribute license plates for which their only compensation is the notary fee. It follows that if a substantial amount of notarized registration certificates were tendered for processing, the distributor would be unable to continue in business. Lacking statutory authority allowing the assessment of a special fee and any law vesting the notarizations of registration certificates exclusively to license distributors however, we hold that if a registration certificate is duly notarized, such certificate must be accepted and a license issued without additional charge.

It is apparent that remedial legislation may become necessary as a result of this opinion which would either vest the exclusive authority to notarize registration certificates in the licensed dealer or allowing a special fee for processing the application. Pending the passage of such legislation however, licenses must be issued if a person submits a registration which has been properly notarized elsewhere.