

**Opinion No. 59-118**

August 21, 1959

**BY:** HILTON A. DICKSON, JR., Attorney General

**TO:** The Honorable Fabian Chavez, Jr. State Senator 404 San Antonio Santa Fe, New Mexico

{\*184} This is in response to your recent request for an opinion on the following question:

1. Do legally constituted chapters of the American Legion and the Veterans of Foreign Wars qualify for the issuance of a "club" license under § 46-1-1, N.M.S.A., 1953 Compilation, p.s.?

Answer: Yes, generally.

The American Legion was incorporated September 16, 1919, by Act of Congress (amended July 9, 1946) and the Veterans of Foreign Wars was incorporated May 28, 1936, also by Act of Congress. Both are patriotic and fraternal organizations of a non-profit character. Both are exempt from payment of Federal Income Tax under § 501 (a), Internal Revenue Code of 1954.

We cannot state whether or not any particular chapter is entitled to receive a "club" license because there are other portions of the section which could control. One of these is the requirement of approval by the local governing officials. We cannot, therefore, give an unqualified answer without a specific case in point.

However, we are satisfied that this is the type of organization contemplated by the above section insofar as length of time in existence, purposes and tax status is concerned.

By B. J. Baggett

Assistant Attorney General