

Opinion No. 61-97

October 4, 1961

BY: OPINION OF EARL E. HARTLEY, Attorney General Mr. L. D Harris, Assistant Attorney General

TO: Mr. Glenn B. Newmayer, Assistant District Attorney, Third Judicial District, Las Cruces, New Mexico

QUESTION

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"Can the Motor Vehicle Department suspend driving privileges of a juvenile by hearing before a representative of the Department, when there has been no citation or petition to the Juvenile Court, and no action taken by a Juvenile Court of the State of New Mexico?"

CONCLUSION

Yes.

OPINION

ANALYSIS

Your attention is directed to Sec. 64-13-60, N.M.S.A., 1953 Comp., and we quote therefrom:

"The division is hereby authorized to suspend the license of an operator or chauffeur without preliminary hearing upon a showing by its records or other sufficient evidence that the licensee:

1. Has committed an offense for which mandatory revocation of license is required upon conviction;
2. Has been involved as a driver in any accident resulting in the death or personal injury of another or serious property damage;
3. Has been convicted with such frequency of serious offenses against traffic regulations covering the movement of vehicles as to indicate a disrespect for traffic laws and a disregard for the safety of other persons on the highways; * * *

As your inquiry seems to have been predicated on a situation which involved a minor who allegedly was driving under the influence of intoxicating liquor and who was

involved in an accident where there was personal injury, we have not quoted further sections of the above statute which give the Department further basis for the suspension or revocation of licenses.

The fact situation as outlined in the accompanying material sent this office would, in our opinion, give the Department ample basis to suspend the subject's license on any or all of the above-quoted sections, depending on such other evidence as the Department may have.

The Supreme Court of New Mexico has adequately covered the authority which the Department has under the above-quoted section of the statute in **Johnson v. Sanchez**, 67 N.M. 41, and the Court pointed out that a license to operate a motor vehicle is a privilege and is subject to reasonable regulation under the police power in the interests of public safety and welfare.

We regard it as immaterial that the subject is a juvenile due to the fact that when an individual is once licensed by the Department, there is no distinguishing law between a juvenile or an adult and the law applies with equal force and effect to all who have the privilege of driving on the highways of the State of New Mexico by benefit of a license issued by the Department.

You have probably noted in the annotation of the above - quoted statute, in both the permanent volume and the pocket supplement, various opinions of this office relative to the interpretation of this statute. If you would desire copies of some of these opinions, please advise and will forward same.