

## **Opinion No. 76-10**

March 23, 1976

**BY:** OPINION OF TONEY ANAYA, Attorney General Arthur Bailey, III, Assistant Attorney General

**TO:** Jerry Manzagol, Commissioner, Department of Motor Vehicles, Manuel Lujan, Sr., Building, Santa Fe, New Mexico 87503

### **QUESTIONS**

#### QUESTIONS

May a "vehicle" or "motor vehicle" be considered an "abandoned vehicle or motor vehicle" as defined in Section 64-4-13(C), NM SA, 1953 Comp. (1975 Supp.) in the following situation:

1. the vehicle or motor vehicle has been unattended on either public or private property for an unreasonable length of time;
2. the vehicle or motor vehicle has not been stolen, embezzled or unlawfully taken or reported as such to a New Mexico law enforcement agency;
3. although not registered in the current year, the vehicle or motor vehicle has been registered with the Department of Motor Vehicles at some time in the past; and,
4. the last registered owner and/or lien holder(s), if any, have failed to respond to correspondence sent to their last known addresses, as indicated by that Department's records?

#### CONCLUSION

See Analysis

### **OPINION**

#### {\*62} ANALYSIS

The frequency of abandonment of vehicles and motor vehicles upon public and private property has created for both the public and the property owner upon whose property a vehicle or motor vehicle is abandoned, adverse aesthetic and environmental effects as well as serious danger to public health and safety. These problems have made it essential that a reasonable and practical system of disposing of abandoned vehicles be established.

Clearly, it would often be impossible or impractical to obtain a properly executed certificate of {\*63} title for a vehicle or motor vehicle which has been abandoned. In recognition of this fact, the legislature has created a statutory scheme by which certain abandoned vehicles and motor vehicles may be dismantled or destroyed by a wrecker or dismantler licensed under Section 64-8-1 through Section 64-8-8, NMSA, 1953 Comp., as amended, who is not in possession of the vehicle's or motor vehicle's certificate of title, and by which real property owners, upon whose property is found an abandoned vehicle or motor vehicle, may dispose of the vehicle or motor vehicle without assigning to the transferee the certificate of title, as is normally required. This statutory scheme is contained in Section 64-4-13 and Section 64-4-13.1, NMSA, 1953 Comp. (1975 Supp.), and, in essence, permits such action to be taken with respect to a vehicle or motor vehicle which is "abandoned," as defined in Section 64-4-13(C), **supra**, and which is at least eight model years old. Section 64-4-13(C), **supra**, reads as follows:

"C. As used in the Motor Vehicle Code (64-1 to 64-23), 'abandoned vehicle or motor vehicle' means a vehicle or motor vehicle left unattended, on either private or public property, for an unreasonable length of time, and which, after being reported to a law enforcement agency in the state, has been by that agency discovered:

- (1) not to have been stolen, embezzled or unlawfully taken or reported as such;
- (2) the legal ownership of which cannot be established by normal record-checking procedures; and
- (3) the legal ownership of which is not claimed or asserted by any person to the knowledge of the law enforcement agency."

Essentially, the issue to be resolved is whether the fact that the Department of Motor Vehicles records indicate the identity of the vehicle's or motor vehicle's last registered owner and/or lien holder(s) will prevent the vehicle or motor vehicle from being considered "abandoned", as defined by Section 64-4-13(C), **supra**, notwithstanding the fact that the vehicle or motor vehicle is not currently registered and the vehicle's or motor vehicle's last registered owner and/or lien holder(s) have failed to assert any claim to the vehicle after notification has been sent to their last known addresses as indicated in Department records. If, in such a situation, the vehicle or motor vehicle would not qualify as "abandoned" within the meaning of Section 64-4-13(C), **supra**, and if an assignment of the vehicle's or motor vehicle's certificate of title could not be obtained, disposal of the vehicle or motor vehicle could not be effected. This undesirable result would obtain in all cases involving vehicles or motor vehicles that had had been, at any time in the past, registered in this State, if Section 64-4-13(C), **supra**, were given such a restrictive interpretation.

We cannot reasonably impute to the Legislature in enacting Section 64-4-13 and Section 64-4-13.1, **supra**, the intention that any vehicle or motor vehicle which has been registered at anytime in New Mexico may not be considered "abandoned" within the meaning of the foregoing statutes. To do so would render the statutes effectively

useless to accomplish the purpose for which they were enacted, that is, to permit disposal of vehicles or motor vehicles that have been left unattended for an {\*64} unreasonable length of time. A construction of statutes which will not defeat their useful purpose is favored. **Alvarez v. Board of Trustees of La Union Townsite** 62 N.M. 319, 309 P.2d 989 (1957). The consequences of various possible constructions should be considered, and a construction which would defeat the Legislature's intentions or lead to absurd results should not be adopted. **State v. Herrera** 86 N.M. 224, 522 P. 2d 76 (1974); **Trujillo v. Romero** 82 N.M. 301, 481 P.2d 89 (1971).

In light of the preceding authority, we are of the opinion that past registration in New Mexico of a vehicle or motor vehicle does not preclude it from being "abandoned," as defined by Section 64-4-13(C), **supra**, provided that all other criteria contained in this section are satisfied, and further provided that a notice has been sent to the last known address of all parties who may have an interest in the vehicle, according to Department of Motor Vehicle records, and no such party has asserted a claim to, or interest in, the vehicle in response to the notice sent to them.