

**OPINION
68-222**

September 12, 1968 (OPINION)

Mr. Thomas Rutten

Assistant State's Attorney

Ramsey County

RE: Motor vehicles - Foreign registration - Employment in state

This is in reply to your letter of September 4, 1968, relative to Section 39-04-18(2)(e) of the North Dakota Century Code, as amended. You note the statute provides a motor vehicle may be operated upon the highways, roads, and streets of this State without being registered under the following circumstances, among others:

"Passenger motor vehicles registered in any other state or territory, provided, however, that such motor vehicles have displayed thereon the current license plates issued by the state or territory in which they are registered and provided further that the owners or operators thereof are not residents of this state for any purpose and are not gainfully employed or stationed in this state."

You state the following facts and questions:

"If a motor vehicle is registered in another state and has current license plates issued by such foreign state, and if the owner or operator is gainfully employed or stationed in this state, does he also have to be a resident of this state?

"In other words from reading this section it would appear that since the word 'and' appears between the words 'purpose' and 'are', it would seem that both of these requirements must be satisfied. That is, the owner or operator must be a resident of the state and must be gainfully employed in order for him to be required to have his vehicle registered in this state. Please give us your interpretation of this section and if you have already issued an opinion in this regard, please send us a copy thereof."

Generally the words "and" and "or" as used in statutes are not interchangeable, being strictly of a conjunctive and disjunctive nature respectively, and their ordinary meaning should be followed if it does not render the sense of the statute dubious. It has been held, however, that such words are not words of technical meaning and they derive their force and meaning from the context and connection of the manner in which they are used. Accordingly, the words "or" and "and" may be construed to be interchangeable, when necessary to effectuate the obvious intention of the legislature as where the failure to adopt such construction would render the meaning of the statute ambiguous or result in absurdities. See 82 C.J.S. 673, Statutes, Section 335.

In this instance we believe the word "and" must be construed in the

disjunctive, i.e., that a person who either is a resident of this State or is gainfully employed or stationed in the State must have his vehicle licensed herein. We arrive at this conclusion because to hold otherwise would cause an absurd and unfair result. As an example, suppose some person who has resided in this State during his entire life and has never resided elsewhere retires. Assume further that he is able to obtain motor vehicle registration in some State other than North Dakota which other State may have a registration fee considerably less than that in this State. Such person could argue that while he is a resident of this State he is not gainfully employed or stationed herein and therefore need not obtain North Dakota registration for his motor vehicle if such vehicle is registered in some other State. We do not believe the Legislature intended this result. Such result would discriminate against those persons who are residents of the State and who are gainfully employed herein.

It is therefore our conclusion that a person who is a resident of this State or who is gainfully employed or stationed in this State must register his motor vehicle in this State under the provisions of Section 39-04-18(2)(e) of the North Dakota Century Code as amended.

HELGI JOHANNESON

Attorney General