

OPINION NO. 66-074

Syllabus:

Military personnel based in Ohio, as well as their wives and children, who intend to return to their home state, are nonresidents and may operate a motor vehicle in Ohio without obtaining an Ohio operator's license, provided they are legally and properly licensed in the state of their residence.

To: Fred Rice, Registrar, Bureau of Motor Vehicles, Columbus, Ohio
By: William B. Saxbe, Attorney General, April 6, 1966

I have before me your request for my opinion relating to certain regulations of the Bureau of Motor Vehicles. Briefly, your question can be summarized as follows:

Inasmuch as Ohio based military personnel are exempted from the requirements of Ohio driver

license laws so long as they are properly licensed in their home state and maintain that state as their residence, is it legal to compel members of the families of said servicemen to obtain Ohio driver licenses?

Regarding domicile generally, Section 3103.02, Revised Code, provides that as between husband and wife, the husband chooses the place of abode, and similarly Section 2151.06, Revised Code, provides that children have the same residence as their parents. Therefore, it would seem to follow that the wives and children of servicemen would not lose their residence or acquire a new residence because of the military assignments of their husbands or fathers.

Section 4507.04, Revised Code, provides in pertinent part as follows:

"Nonresidents, permitted to drive upon the highways of their own states, may operate any motor vehicle upon any highway in this state without examination or license under sections 4507.01 to 4507.39, inclusive, of the Revised Code * * *"

My predecessor, in Opinion No. 2271, Opinions of the Attorney General for 1961, at page 296, further commented on nonresident motor vehicle regulations. In that Opinion, the term "nonresidents" was determined to include persons from another state who reside in Ohio temporarily and intend to return to their home state. The Opinion also stated that an out-of-state married student attending a university in Ohio, who intends to return to his home state, is a nonresident and may operate a motor vehicle in Ohio if he has a permit to drive upon the highways of his own state.

I am in full accord with my predecessor's interpretation of the Ohio nonresident motor vehicle law, and it is my belief that such interpretation should be extended to the present question relating to Ohio based military personnel. Furthermore, in light of the provisions of Sections 3103.02 and 2151.06, supra, I see no reason for differentiating between servicemen and their wives or children.

Accordingly, it is my opinion and you are hereby advised that military personnel based in Ohio, as well as their wives and children, who intend to return to their home state, are nonresidents and may operate a motor vehicle in Ohio without obtaining an Ohio operator's license, provided they are legally and properly licensed in the state of their residence.