

RE: Affidavit of Non-Use and the Penalty for Late Registration
Effective date: Immediate

Date: August 10, 2011
To: All MVD
From: Mac Lewis, MVD Policy and Procedures Manager

[This is the latest in a series of procedural updates. These updates deal with specific MVD procedures and practices. Managers and Supervisors should consistently distribute the updates to all personnel and integrate them into regular information and training sessions.]

The Affidavit of Non-Use of Vehicle form MVD-11268 is to be used only for the purpose of compliance with the Mandatory Financial Responsibility Act (MFRA) based on non-use of a vehicle or out-of-state vehicle insurance. Neither MVD-11268 nor any other form or stamp may be used for any purpose related to late payment of vehicle registration fees.

The Affidavit of Non-Use of Vehicle form (MVD-11268) has been inappropriately used by customers to document the non-use of a vehicle so as to avoid payment of the Sec. 66-3-19E penalty for operation of a vehicle with an expired registration.

Sec. 66-3-19E NMSA 1978 says in part, "If a vehicle, other than a manufactured home, is operated or transported after the expiration of the vehicle registration, the owner of the vehicle is subject to a penalty of the greater of ten dollars (\$10.00) or, if the vehicle is operated or transported thirty-one or more days after the expiration of the registration, an amount equal to seventy-five percent of the registration fee."

Please note that the penalty is not for a late registration, but is rather for operation of the vehicle with an expired registration. And unless we know for a fact that the customer has driven the vehicle with an expired registration, or the customer admits to so doing, we have no basis for charging the penalty.

When a customer comes to us to renew a registration that has expired, there are two questions you can ask.

- You may ask, "Where is the vehicle now?" If the vehicle is in the field office parking area, because the customer has driven it to the field office to renew the registration, the customer has clearly been operating the vehicle with an expired registration, and the penalty clearly does apply.
- You may also ask, "Have you driven the vehicle since the registration expiration date?" If the answer is "yes," the penalty applies. If the answer is "no," and you have no proof to the contrary, the penalty does not apply.

There is no need for an affidavit or any special form or stamp to assert non-operation of the vehicle for this purpose.

And remember: the Affidavit of Non-Use form MVD-11268 should never be used or accepted for any reason other than to satisfy the insurance requirements of the MFRA.

Field office managers and supervisors should refer any comments or questions regarding this Procedural Quick Update to their Bureau Chiefs, with cc to mac.lewis@state.nm.us. Others are encouraged to direct comments or questions directly to Mac Lewis, MVD Policy and Procedure Manager, at mac.lewis@state.nm.us.
