

Opinion No. 4

Resident Hunting and Fishing License—Minor Child—Six Months
Continuous Residence

Held: A minor child must reside continuously for a period of six (6) months in the State of Montana before he may obtain a resident hunting and fishing license. The residence of a parent is the residence of the unmarried minor children but the minor may not tack his parents period of residence to his actual residence to meet the six months requisite.

February 19, 1957

Mr. John L. McKeon
County Attorney
Anaconda, Montana

Attention Mr. Maurice A. Maffei

Dear Mr. McKeon:

You have requested my opinion whether a minor child must reside continuously for a period of six months in the State of Montana before he may obtain a resident hunting and fishing license as required in 26-202.3 (2), R.C.M., 1947.

Section 26-202.3 (2), R.C.M., 1947, is express in requiring any citizen of the United States to reside **continuously** for a period of six months immediately prior to making application for a resident hunting and fishing license. A minor child must fulfill this **continuous** six months requisite before he is eligible for such a license.

You stated further that the minor child joined his parents after their having resided in the State for five months and the minor resided here two months before applying for a resident hunting and fishing license. The minor added his period of actual residence to that of his parents to qualify for the six months requisite.

Section 83-303, R.C.M., 1947, states the rules for determining residence and states in part:

"4. The residence of the father during his life . . . is the residence of the unmarried minor children."

"6. The residence of an unmarried minor who has a parent living cannot be changed by either his own act or that of his guardian."

"7. The residence can be changed only by the union of act and intent."

The minor child became a resident of Montana the moment his parents entered Montana and declared this State their residence. Sec. 83-303 (4), (6), (7) R.C.M., 1947.

However, the six months period **is in addition** to being a resident and may not be predicated to a minor child by his parents alone residing within the State. The minor child must reside continuously for a period of six months himself and he may not tack on to his period of residence, for purposes of this Act, the time spent by his parents in Montana prior to his joining them in the State.

It is therefore my opinion that although the residence of a parent is the residence of the unmarried minor children, the latter must reside continuously for a period of six months in the State of Montana before they may obtain a resident hunting and fishing license. The minor may not tack his parents period of residence to his actual residence to meet the six months requisite.

Very truly yours,
FORREST H. ANDERSON
Attorney General