

OPINIONS OF THE ATTORNEY GENERAL

VOLUME NO. 39

OPINION NO. 30

TRAFFIC - Application of traffic regulation statute which governs conduct "upon the highways and elsewhere throughout the state"
MONTANA CODE ANNOTATED - Sections 61-1-201, 61-7-102, 61-8-101.

HELD: A statute regulating operation of motor vehicles which, by its terms, applies to conduct "upon highways and elsewhere throughout the state," may be applied to conduct occurring on private property.

17 August 1981

John R. Prater, Esq.
Prairie County Attorney
P.O. Box 625
Terry, Montana 59349

Dear Mr. Prater:

You have requested my opinion as to whether the provisions of the Uniform Accident Reporting Act, Title 61, ch. 7, MCA, hereafter referred to as "the Act," may be applied to accidents occurring on private property. Section 61-7-102, MC provides that the Act applies "upon highways and elsewhere throughout the state." This language was originally enacted in 1955 Montana Laws, chapter 263, section 22. As enacted, this statute created a general rule that traffic laws applied only on highways, subject to specifically stated exceptions. The 1955 enactment created exceptions for provisions governing reckless driving, driving under the influence of alcohol or drugs, and for the accident reporting provisions of the Act. In codifying the Montana Code Annotated, the Legislature separated the Act from the general traffic regulations, and codified the exception for the Act created in the 1955 statute as a separate section, § 61-7-102, MCA. The remainder of section 22 of the 1955 Act is codified at section 61-8-101(1), MCA.

The Montana Supreme Court has yet to define the reach of traffic laws which are statutorily stated to apply "upon highways and elsewhere throughout the state." However, similar language in statutes of other states has been construed to permit application of traffic

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regulations to conduct occurring on private property. See Annot., 29 A.L.R. 3d 938, § 5 (1970), and cases there cited. As noted above, the general rule is that traffic regulations apply only on highways. Since the definition of "highway" includes every road maintained for public use, see § 61-1-201, MCA, if the phrase "and elsewhere throughout the state" is to have any meaning, it must be construed to permit application of the statutes containing the phrase to conduct occurring on private property.

THEREFORE, IT IS MY OPINION:

A statute regulating operation of motor vehicles which, by its terms, applies to conduct "upon highways and elsewhere throughout the state," may be applied to conduct occurring on private property.

Very truly yours,

MIKE GREELY
Attorney General