

OPINIONS OF THE ATTORNEY GENERAL

VOLUME NO. 39

OPINION NO. 57

COUNTY SUPERINTENDENT OF SCHOOLS - The penalty a county superintendent must impose for district operating school buses beyond established routes is immediate suspension of all reimbursements and forfeiture of funds for excess mileage;

COUNTY TRANSPORTATION COMMITTEE - Committee decisions covered by phrase "transportation law" in section 20-10-104, MCA;

SCHOOL BUSES - School bus routes established by the county transportation committee must be complied with or penalty in section 20-10-104, MCA, applies;

SCHOOL TRANSPORTATION - School buses traveling outside routes established by county transportation committee trigger penalty in section 20-10-104, MCA;

MONTANA CODE ANNOTATED - Sections 20-10-104, 20-10-131, 20-10-132, 20-10-145, 20-10-146.

HELD: The penalty for operating school buses in violation of or without approval of routes established by a county transportation committee is suspension of all reimbursements until the violation is corrected and forfeiture of funds for the miles traveled in violation of the committee's decisions.

1 April 1982

Ronald W. Smith, Esq.  
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Dear Mr. Smith:

You have requested my opinion on the following question:

What is the penalty for operating school buses in violation of or without approval of routes established by a county transportation committee?

Bus transportation provided by school districts is governed by the statutes in Title 20, chapter 10, part 2, MCA. That part establishes a county transportation committee for each county composed of various county officials, § 20-10-131, MCA. The purpose of this committee is to "coordinate the orderly provision of a uniform transportation program within a county under the transportation law, board of public education transportation policies, and the transportation rules of the superintendent of public instruction...." § 20-10-131, MCA. The duties of the committee, as set out in section 20-10-132, MCA, include the task of approving, disapproving or adjusting school bus routes. If the bus routes are approved by the county transportation committee and they comply with state transportation law, school districts become eligible for county and state transportation reimbursement. The amount of reimbursement available is set out in sections 20-10-145 and 20-10-146, MCA.

Your question regards the interpretation of section 20-10-104, MCA, which provides in part:

Penalty for violating law or rules....When a district knowingly violates a transportation law or board of public education transportation policy, such district shall forfeit any reimbursement otherwise payable under 20-10-145 and 20-10-146 for bus miles actually traveled during that fiscal year in violation of such law or policies. The county superintendent shall suspend all such reimbursements payable to the district until the district corrects the violation. When the district corrects the violation, the county superintendent shall resume paying reimbursements to the district, but the amount forfeited may not be paid to the district.

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Your question involves the penalty a county superintendent must impose on a school district which knowingly operates buses beyond routes established by a county transportation committee.

The penalty prescribed in section 20-10-104, MCA, applies to districts which "knowingly violate a transportation law or board of public education transportation policy...." While the latter term is self-explanatory, "transportation law" is not defined in the code. It is necessary, therefore, to look to rules of statutory construction for guidance in interpreting that term. The fundamental rule of statutory construction is that the intent of the Legislature controls. Security Bank & Trust v. Conners, 170 Mont. 59, 550 P.2d 1313 (1976). That intent should be ascertained from the plain meaning of the words in the statute with the goal giving effect to the purpose of the statute. Dover Ranch v. Yellowstone County, 37 St. Rptr. \_\_\_\_\_, 609 P.2d 711 (1980). Viewing section 20-10-104, MCA, under the above rules it is my opinion that transportation law includes decisions made by the county transportation committee. This committee and its functions are mandated by law. §§ 20-10-131, 132, MCA. The legislative intent ascertained from section 20-10-104, MCA, is to provide some penalty for violation of transportation laws. It gives the county transportation committee a method of enforcing its decisions. Otherwise the penalty section would have little, if any, direct effect on the school districts. These districts would be free to operate buses as they choose regardless of the county transportation committee's bus routes.

In addition the section discusses the penalty in terms of excess miles traveled. The only way to determine what constitutes excess mileage is to compare the mileage traveled under routes established by the county transportation committee with the actual miles traveled by a district's buses.

Turning to the question of the penalty itself, section 20-10-104, MCA, appears at first glance to require forfeiture of reimbursement for excess miles only. Upon reading the section as a whole, however, it is my opinion that the penalty provision is to be interpreted as follows: When a violation of a county transportation

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committee decision is discovered, the county superintendent must suspend all county and State reimbursements for transportation to the district. When the district corrects the violation the county superintendent shall resume paying reimbursements. The penalty prescribed is forfeiture of reimbursements for miles traveled in violation of transportation law or Board of Public Education policies. That means any miles traveled in excess of the routes established by the county transportation committee cannot be reimbursed. When the payment of reimbursements is resumed by the county superintendent all those miles traveled in compliance with the transportation committee's decisions during the suspension are to be repaid. Only the reimbursement for the excess miles is to be forfeited. The suspension of all payments is the Legislature's method of forcing compliance. With no transportation funds coming in, the district will be forced to comply with the law or face operating expenses far above their means.

To interpret section 20-10-104, MCA, otherwise is to reach absurd results. For example, if section 20-10-104, MCA, is interpreted to mean only the excess miles reimbursement is suspended then the law provides no penalty. A district will never be reimbursed for those excess miles, so to suspend payment for them is to suspend nothing. On the other hand, to suspend all reimbursements and cause a district to forfeit the entire amount, beginning payments again when the violation is corrected, forces a district to bear transportation costs required by law to be reimbursed by the state and county. The suspension of all reimbursements until the violation is corrected with the forfeiture of reimbursement only for the excess miles provides a penalty section which a county transportation committee can readily enforce and which does not needlessly penalize.

THEREFORE, IT IS MY OPINION:

The penalty for operating school buses in violation of or without approval of routes established by a county transportation committee is suspension of all reimbursements until the violation is corrected

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and forfeiture of funds for the miles traveled in violation of the committee's decisions.

Very truly yours,

MIKE GREELY  
Attorney General