

**License Moneys, Disposition Of. Common Carrier, License.
State License.**

The license contemplated by Sec. 2774, Revised Codes of Montana is a state license, and the entire proceeds thereof must be deposited with the state treasurer, irrespective of whether collected by the state treasurer or county treasurer.

May 4, 1911.

Hon. E. E. Esselstyn,
State Treasurer,
Helena, Montana.

Dear Sir:

I am in receipt of your request for an opinion with reference to the division of license moneys collected in pursuance of the provisions of Section 2774 of the Revised Codes of 1907, being what are known as common carrier and express licenses. In order intelligently to understand the statutes with reference to this matter, I would respectfully call your attention to the provisions of said Section 2774 prior to its amendment in 1903.

By the provisions of Section 4074 of the Political Code (now Section 2774 of the Revised Codes), a license was provided for in each county wherein any such common carrier or express company transacted business, such license to be paid to the county treasurer of the county and to be accounted for by such county treasurer in the manner provided by Sections 2756 and 1909 of the Revised Codes; that is, fifty per cent thereof to be retained by the county treasurer, forty-five per cent thereof to the state for general purposes, and five per cent thereof to the state to the credit of the bounty fund. However, by the act of March 4, 1903 (now Section 2774 of the Revised Codes), provision was made for the payment of a state license which must be procured from the state treasurer, or from the county treasurer of the county where their principal office is located. It is clear from this provision that the object of the legislature was to provide for but one license for each common carrier or express company, which license should be a state license, and the provision in said section providing for the payment to the county treasurer of the county where the principal place of business is located was simply for the convenience of the licensee, and it is my opinion that the funds received, however, should be fully accounted for to the state treasurer, irrespective of whether such licenses was paid to the state treasurer directly or to the state treasurer through the county treasurer.

I return you herewith the communication from the county treasurer of Teton county, in accordance with your request.

Yours very truly,

ALBERT J. GALEN,

Attorney General.