

Motor Vehicles—Registrar of Motor Vehicles—Automobiles—Fees—Funds—Distribution.

The provisions of chapters 88 and 129, laws of 1927, do not mean that the registrar must, when any single license fee is received, remit at once the amount due the county, but he must remit within a reasonable time under all the circumstances.

March 20, 1928.

W. P. Costello, Esq.,
Deputy County Attorney,
Great Falls, Montana.

My dear Mr. Costello:

You have requested my opinion relative to the construction of the provisions of chapter 88 and chapter 129, laws of 1927, relative to the distribution and disposal of funds collected by the registrar of motor vehicles and have given me your opinion thereon.

I agree with your opinion to the effect that the following provisions of chapter 88, to-wit:

“The registrar of motor vehicles shall first deduct from all fees paid under the provisions of this act, the actual cost of making and mailing all licenses, certificates, license plates, and identification marks, and shall transmit the remainder of the fees so paid to the county from which the registration fee came, to be used by said county for the construction, repair and maintenance of all public highways within said county, including city streets forming component parts of arterial highways within the corporate limits of cities within the boundaries of said county.”

is in direct conflict with subdivision 6 of chapter 129 and that the provisions of chapter 88 being the specific enactment will prevail.

I am, however, unable to agree with you that the provision in question means that the registration money must be immediately transmitted by the registrar directly to the county from which it came. The law provides that the actual cost shall first be deducted, and it is clearly impossible for the correct deduction to be made for each individual license issued, and further, the remittance must be made through the proper channel which is through the state treasurer who pays this money to the county upon state warrants drawn for that purpose. By this I do not mean that the registrar is entitled to hold money rightly belonging to the different counties for an unreasonable length of time, or in amounts greatly in excess of the probable cost of issuing the license.

Attorney General Rankin, in discussing the provisions of section 1760 R. C. M. 1921, which is similar to chapter 88, supra, in this respect, in vol. 9, Opinions of Attorney General, page 289, said:

“It is not specifically provided in the foregoing section when the money shall be transmitted, and in such case the general rule of law, that when no specific time is provided for the doing of an act required to be done it must be done within a reasonable time under all the circumstances, would seem to be applicable.

“The fund in question belongs to the respective counties the moment it comes into the hands of the registrar, subject only to deduction of the incidental costs provided in the section quoted. It is due the counties at once, subject only to the retention of such amounts as are necessary to make reasonable provision for said costs. The necessity for making provision for these costs, however, need not prevent the transmittal of such funds less such percentage of the total as experience and the records of the registrar's office relating to this expense may indicate as sufficient to cover the deductions provided for in the act.

“It is not meant that the registrar must in every case and in every event, and when any single license fee is received by him, remit at once the amount, no matter how trifling. The above rule as to what is reasonable under the circumstances

applies also to matters of administration, and the law would allow a reasonable time for the performance of administrative duties as well as the accumulation of an amount worth while transmitting."

I am informed by the registrar that he is at the present time distributing this money to the several counties every thirty days and I am inclined to the opinion that under all the circumstances connected with the administration of this fund that the courts would hold that this is a reasonable time in which to make the distribution and that the registrar is complying with the law above stated.

Very truly yours,

L. A. FOOT,
Attorney General.