

**Opinion No. 79****Highway Patrol—Driver's License  
—Federal Reservations.**

HELD: 1. Every owner of a motor vehicle must obtain a 50¢ driver's license before he may drive that motor vehicle on the main or secondary highways of this state outside of incorporated cities and towns, but only one license fee is required of the owner no matter how many motor vehicles he may possess. An additional 25¢ license will be required if a member of the same family drives the same motor vehicle.

2. The mere fact that a person owns a motor vehicle which is operated on

the public highways, does not require him to obtain a driver's license unless he actually drives said motor vehicle or some other motor vehicle.

3. Driver's license may be collected on Federal Reserves.

April 12, 1935.

State Highway Commission  
The Capitol

This will acknowledge receipt of your letter of April 10, requesting an opinion of this office upon the following questions, which we shall discuss in the order in which they have been presented.

"1. Is it necessary that the owner have driver's license for each car that is owned? That is, if a company or individual has a number of cars, must the owner have a driver's license for each of these cars?"

Section 10 of Chapter 185, Laws of Montana, 1935, provides: "Within sixty (60) days from and after the passage and approval of this Act, every owner and driver of a motor vehicle, including motorcycles, shall procure a driver's license from the Registrar of Motor Vehicles or from the County Treasurer of the county in which applicant resides.

"The fee for a driver's license for a taxi driver, truck driver or the owner of a motor vehicle shall be fifty cents (50¢); for any additional drivers of passenger cars the fee shall be twenty-five cents (25¢)."

Section 6 of the same Act, declares it to be a crime to drive a motor vehicle without all proper licenses or permits, on the main or secondary highways of the state outside of incorporated cities and towns.

We are permitted to consider the spirit and purpose of the entire act in construing the above two sections. (State v. Sedgwick, 46 Mont. 187, 127 Pac. 94; State v. Kall, 53 Mont. 162, 5 A. L. R. 1309; State v. Duncan, 55 Mont. 376, 177 Pac. 248; State v. Tullock, 72 Mont. 482, 234 Pac. 277; Cottonwood Coal Company v. Junod, 73 Mont. 392, 236 Pac. 1080; State v. Mills, 81 Mont. 86, 261 Pac. 885; State v. Hays, 86 Mont. 58, 282 Pac. 32; McNair v. School District, 87 Mont.

423, 288 Pac. 188, 69 A. L. R. 866; Young v. Board of Trustees, 90 Mont. 576, 4 Pac. (2d) 725; Campbell v. City of Helena, 92 Mont. 366, 16 Pac. (2d) 1.)

Clearly the *raison d'etre* of both sections 6 and 10 is to regulate and not to raise revenue by taxing motor vehicles or the owners thereof.

Again, the language used in the second paragraph of Section 10, *supra*, is that "The fee for a driver's license \* \* \* for the owner of a motor vehicle shall be fifty cents (50¢)." It does not say "an owner's license." A driver's license is personal (42 C. J. Section 217, p. 743); it may not be transferred, assigned or sold; it may under the act be revoked.

Accordingly, it is our opinion that under the two sections quoted above every owner of a motor vehicle will be required (when Chapter 184, *supra*, becomes effective) to obtain a 50¢ driver's license before he may drive that motor vehicle on the main or secondary highways of this state outside of incorporated cities and towns. We believe, however, that only one fee is required of the owner no matter how many motor vehicles he may possess. It would seem if more than one person drives the same motor vehicle, as in the case of members of the same family, that an additional twenty-five cent (25¢) driver's license will be required.

"2. Is it necessary for the owner of an individual vehicle to have a driver's license if they do not drive? That is, if they have a chauffeur, the chauffeur of course would be licensed but is it necessary for the owner also?"

This question is answered in our reply to question No. 1, above. In other words, it is our opinion that the mere fact that a person owns a motor vehicle which is operated on the public highways, does not require him to obtain a driver's license unless he actually drives said motor vehicle or some other motor vehicle.

"3. May the driver's license be collected on reserves, such as Fort Peck, or for drivers in the National Parks, such as Glacier National Park?"

This question, we think, has been

answered in the affirmative by an opinion of Attorney General Rankin, Volume 9, Report and Official Opinions of Attorney General, p. 135, and by opinions No. 578 and 589 rendered by this office.