

**Opinion No. 169.****Motor Vehicles — Financial Responsibility Law — Insurance — Non-licensed Carriers—Non-residents.**

HELD: 1. There is no conflict between the provisions 1 and 2 of Section 3, Chapter 129, Laws of 1937. Provision 1 applies when one person is injured or killed and Provision 2 applies when more than one person is injured or killed.

2. The filing of a certificate by an insurance carrier not licensed to do business in Montana will fulfill the financial responsibility requirements for non-residents providing the non-licensed company has met the conditions prescribed in Section 4 of Chapter 129, Laws of 1937.

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October 6, 1937.

Mr. T. F. Walsh  
Deputy Registrar  
Deer Lodge, Montana

My Dear Mr. Walsh:

You have requested an opinion on the following questions:

1. Is it possible to reconcile Provisions 1 and 2 of Section 3, Chapter 129, Laws of 1937?

2. Does the filing of a certificate by an insurance company not licensed to do business in the State of Montana fulfill the financial responsibility requirements for non-residents under said Chapter 129?

Section 3 provides for the suspension of operators' and chauffeurs' licenses in the event of failure to satisfy judgment for damages on account of personal injury, including death, or damage to property in excess of \$100. Nor shall such license be renewed until the judgment is satisfied. It is made the duty of the clerk of the court to forward to the registrar a certified copy of such judgment. Similar provisions are made for subsequent judgments. Then the section continues with the following proviso:

"Provided, however, anything in this act to the contrary notwithstanding, that,

(1) When one hundred dollars (\$100.00) has been credited upon any judgment or judgments rendered in excess of that amount for personal injury to or the death of **one person** as the result of any one accident; or

(2) When, subject to the limit of five hundred dollars (\$500.00) for any one person so injured or killed, the sum of one thousand dollars (\$1,000.00) has been credited upon any judgment or judgments rendered in excess of that amount for personal injury to or the death of **more than one person** as the result of any one accident; or

(3) When two hundred and fifty dollars (\$250.00) has been credited upon any judgment or judgments rendered in excess of that amount for damage to property as the result of any one accident, resulting from the ownership, maintenance, use or operation of a motor vehicle, then and in such event, such payment or payments shall be deemed a satisfaction of such judgment or judgments for the purposes of this section only." (Underscoring ours.)

When a judgment in excess of \$100 has been rendered for the injury of any one person in any one accident, Proviso No. 1 applies and payment of \$100 will be deemed a satisfaction of such judgment for the purposes of Section 3.

If more than one person is injured and judgment is rendered in excess of \$1000, then Proviso No. 2 is applicable and \$1000 must be credited before the judgment is paid, subject to the further limitation of \$500 when any one person was injured or killed.

Your second inquiry is answered in Section 4 of the Act, where it is provided that:

"If such person be a non-resident, a certificate, as aforesaid, of an insurance carrier authorized to transact business in the state or province in which the motor vehicle or motor vehicles described in such certificate is registered, or if none be described, then in the state or province in which the insured resides, shall be accepted if such carrier shall (a) execute a power of attorney authorizing the registrar to accept service of notice or process in any action arising out of a motor vehicle accident in this State, and (b) its governing executive authority shall duly adopt a resolution providing that its policies shall be deemed to be varied to comply with the law of this State relating to the terms of motor vehicles liability policies issued therein, and (c) agree to accept as final and binding any final judgment duly rendered in any action arising out of a motor vehicle accident in any court of competent jurisdiction in this State; provided, however, that the provisions of this section shall be operative as to such insurance carriers (organized and existing under the laws of such state or province and not licensed to transact business in this State) only to the extent and under the same terms and conditions that under the laws of such state or province where such motor vehicle is registered or in which the insured resides, like recognition, if a law of like effect is in force and effect, is granted to certificates of insurance carriers organized and existing under and by virtue of the laws of this State. If, under the laws of such state or province, in which a law of like effect is in force and effect, certificates of insurance carriers organized and existing under or by virtue of the laws of this State are not accepted, the certificates of insurance carriers of such state or province shall not be accepted under the provisions of this act."

By this section a non-licensed insurance carrier may file a certificate for a non-resident if, first, the carrier is authorized to transact business in the state or province in which the motor vehicle is registered; or, second, if no motor vehicle is described, then in the

state or province in which the insured resides, provided further they have (a) executed power of attorney to the registrar, (b) adopted a resolution that its policy shall be deemed to comply with the laws of the State of Montana, (c) agreed to accept judgment in any court action as final, but subject further to the retaliatory feature that this provision shall be operative only to the extent and under the same terms and conditions that the laws of the state where the motor vehicle is registered, or the insured resides, recognize non-licensed insurance carriers, organized by virtue of the laws of the State of Montana.