

**Opinion No. 299.****Highway Patrol—Revolving  
Fund—Fines.**

HELD: Fines collected for violations of Chapter 150, R. C. M. 1935, as amended by Chapter 182, Laws 1937, are distributed in accordance with Section 1741.12.

Fines collected for violation of Chapter 151, R. C. M. 1935, are distributed in accordance with Section 1752.

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July 12, 1938.

Mr. George J. Allen  
County Attorney  
Livingston, Montana

My Dear Mr. Allen:

You have asked for my opinion in reference to the disposal of fines collected for violations of the provisions of Chapter 151, Revised Codes of Montana, 1935, and particularly Section 1751.4 thereof.

Section 1741.12 provides: "Highway patrol revolving fund—composition of—payments from. For the purposes of carrying out the provisions of this act, there is hereby created a state highway patrol re-

volving fund to which shall be credited all of the fees above mentioned and, in addition thereto, all fines collected. Payment of all proper and approved expenditures for the salaries, expenses, equipment and maintenance of the highway patrol, including court costs not otherwise provided for, shall be made from the state highway patrol revolving fund in the same manner as other claims against said fund are paid. All fees, fines and forfeitures collected in any court from persons apprehended or arrested by patrolmen for violation of this act and the laws and regulations relating to the use of the state highways and the operation of vehicles thereon must be paid to the state treasurer of Montana, and by him credited to the state highway patrol revolving fund, and a separate account shall be kept thereof; and at the time of payment of any such fee, fine or forfeiture there shall be filed with the state treasurer a complete statement showing the total of the fees, fines or forfeitures received or incurred, which statement shall give the title of the court and cause and be subscribed by the person or officer making such payment; provided that from said fund shall be paid all court costs and fees, and expenses of the counties, in the event prisoners have been boarded."

The above section was enacted into law as part of Chapter 185, Laws of 1935, and the fines distributed thereunder have application to fines received for violation of those offenses enumerated in said chapter as amended by Chapter 182, Laws of 1937. The fines collected for violations of the provisions of Chapter 151, Revised Codes of Montana, 1935, are distributed in accordance with the provisions of Section 1752.

Chapter 182, Laws of 1937, by its express language amends Sections 1741.4 to 1741.11, inclusive, which sections are a part of Chapter 150, Revised Codes of Montana, 1935.

Chapter 151, *supra*, and particularly Section 1752, has not been amended by Chapter 182 nor by Chapter 150, and particularly Section 1741.12 thereof. Sections 1741.12 and 1752 are not in conflict as each has application to different classes of offenses. It is true that Section 7 of Chapter 182 author-

izes patrolmen to make arrests for violations of traffic laws committed within their presence. Such arrests could include offenses chargeable in Chapter 151. Because authority to make such arrests exists, it does not follow that the proceeds of the fines accrue to the highway patrol revolving fund as provided for in Section 1741.12, because Section 1752 makes further provision.

Therefore, it is my opinion that fines accruing for a violation of Chapter 150, Revised Codes of Montana, 1935, as amended by Chapter 182, Laws of 1937, should be allocated in accordance with Section 1741.12; and fines accruing for a violation of Chapter 151, and particularly Section 1751.4 should be allocated in accordance with Section 1752.