

**Opinion No. 346.****Fish and Game—Licenses—Residents.  
Exceptions—Husband and Wife.**

HELD: 1. Wives of officers, soldiers, sailors of the U. S. Army, navy or marine corps have to reside in the state for six months before being entitled to purchase resident fish and game licenses.

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October 26, 1938.

Mr. H. B. Landoe  
County Attorney  
Bozeman, Montana

Dear Sir:

Two officers of the United States Army who have been stationed in Gallatin County for two or three weeks are applicants for big game hunting licenses.

Section 3685, Revised Codes of Montana, 1935, provides as follows:

“\* \* \* All citizens of the United States who have lived in this State at least six months, immediately preceding their application for a license, or officers, soldiers, sailors and ma-

rines of the United States army, navy or marine corps, shall be deemed resident citizens for the purpose of this section, as well as officers of the forest service and of the biological survey of the United States Department of Agriculture."

Under that section you rule that the two applicants should be issued resident licenses. But the wives of these officers also applied for hunting licenses, and you have asked if they are entitled to resident licenses or if they should be required to purchase non-resident licenses.

Section 3685, *supra*, is a special section on residence. It deems all citizens who have lived in the State of Montana for six months as residents for the purchase of fish and game licenses, and, further, deems all officers, soldiers, sailors and marines as resident citizens for the purchase of such licenses.

Resident is a word of a variety of meanings. A person becomes a resident of a place by the mere act of living or abiding there, coupled with an intent to reside there. It is defined in Section 33, Revised Codes of Montana, 1935, subdivision (1), as:

"The place where one remains when not called elsewhere for labor or other special or temporary purpose, and to which he returns in seasons of repose."

In this state residence for the purpose of voting is defined under Section 574, Revised Codes of Montana, 1935, and in order to be eligible to vote in Montana a citizen must have been a resident of the state for one year. (See also Article IX, Section 2, Montana Constitution.) Similarly, the period of residence for the purpose of divorce is one year. (Section 5766, Revised Codes of Montana, 1935.)

Then, in order to determine the period of residence required for issuing of fish and game license, it is only necessary to look at the specific provisions of the statute involved. Qualifications are that the applicant must be a citizen of the state for six months. Clearly the wives of these officers have not resided in Montana for the requisite period, nor do they come under the exemptions listed. It is my opinion that wives of soldiers, sailors, or army officers are not entitled to

purchase resident fish and game licenses until they have resided in the state for the prescribed period. It has been suggested that subdivision (5) of Section 33, Revised Codes of Montana, 1935, "The residence of the husband is presumptively the residence of the wife" might be taken to mean that the wife of officers, etc., are also exempt under Section 3685, but this is not the case. It must be kept in mind that the statute provides that a person must have lived in the state for six months. In this case the wife of an army officer is deemed a resident for the purpose of purchasing fish and game license only after residing in the state the statutory period. The only exemptions are those set out by the statute. These women may be residents if it is the intent of their husbands to become residents, the general rule of Section 33, R. C. M. 1935, apply and the wives are also residents, but to qualify under the statute the wives must also have resided for a six month period before either can qualify for resident fish and game license.