

Opinion No. 214.

**Fines—Rules and Regulations—County
Treasurer—State Treasurer—Highways
—Patrolmen—Vehicles—Drunken
Driving—Violations.**

Held: Fines for violation of highway patrol act and other rules and regulations relating to the use of state highways and the operation of vehicles thereon when the arrest or apprehension is made by a highway patrolman shall be paid to the state treasurer and by him credited to the general fund of the state of Montana.

May 24, 1944.

Mr. W. A. Brown
State Bank Examiner
State Capitol
Helena, Montana

Dear Mr. Brown:

You have requested an opinion of this office as to the correct disposition of a fine imposed by the district court of Missoula County on a person for driving while intoxicated. You state that such person was arrested by a highway patrolman on April 20, 1941, while driving a motor vehicle on the state highway about three-tenths of a mile east of the city of Missoula, Montana, and that on or about the 7th day of October, 1941, he plead guilty to the charge and was fined \$300.00, which fine was paid October 7, 1941.

You specifically ask if this money should be paid to the state general fund for the highway patrol or whether

it should go to the road fund of Missoula county.

At the time of the arrest Section 1741.12, Revised Codes of Montana, 1935, was in full force and effect, which section provided in part as follows:

“. . . all fees, fines and forfeiture collected in any court from persons apprehended or arrested by patrolmen for violation of this act and the laws of and regulations relating to the use of 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 . . .”

Between the time of arrest and the payment of the fine, Chapter 14, Laws of 1941, became effective and Section 5 of Chapter 14 amended Section 1741.12, Revised Codes of Montana, 1935, to provide all such fines should be paid to the State Treasurer of Montana and by him credited to the general fund of the state.

Had the arrested person plead guilty and been fined prior to the first day of July, 1941, then the money should have gone to the Treasurer of the state of Montana, and by him credited to the state highway patrol revolving fund, as provided by Section 1741.12, Revised Codes of Montana, 1935.

From your letter I assume this case was not brought on for hearing, or at least finally disposed of and the fine not imposed until the 7th day of October, 1941, and under those circumstances the fine must be paid to the Treasurer of the State of Montana and by him credited to the general fund of the state as provided by Section 5 of Chapter 14, Laws of 1941. The date when the fine is imposed controls the disposition of the fine. (See in this respect *Cushman v. Hale*, 35 A. 382, and *Watson Seminary v. Pike County Court*, 50 S. W. 880.)

The county road funds do not participate in such fines if the arrest is made by a highway patrolman.

Therefore, it is my opinion the said fine of \$300.00 should be paid to the Treasurer of the state of Montana and by him credited to the general fund of the state of Montana.

Sincerely yours,
R. V. BOTTOMLY
Attorney General