

Opinion No. 207.

**Automobiles—Motor Vehicles, Registrar of Motor Vehicles—Financial Responsibility—Drunken Driving—Intoxicated Driving.**

**Held:** A person convicted under the provisions of Section 1746.1, as amended, of operating a motor vehicle while under the influence of intoxicating liquor may apply for a driver's license thirty days from the date of such conviction; but such person so convicted shall not be eligible to receive such driver's license until he has complied with the provisions of Chapter 129, Laws of 1937.

September 23, 1946.

Mr. John E. Henry  
Registrar of Motor Vehicles  
Deer Lodge, Montana

Dear Mr. Henry:

You have presented this problem:

May a person convicted of driving a motor vehicle under the influence of intoxicating liquor, pursuant to Section 1746.1, Revised Codes of Montana, 1935, as amended by Chapter 198, Laws of 1943, apply for and receive a license to operate a motor vehicle pursuant to the provisions of Section 1746.2, as amended by Chapter 198, Laws of 1943, without reference to requirements of Section 2 of Chapter 129, Laws of 1937?

In Opinion No. 134, Volume 20, Report and Official Opinions of the Attorney General, this office ruled it is the duty of the Registrar of Motor Vehicles to apply the provisions of Section 2 of Chapter 129, Laws of 1937, to any person who shall be convicted of operating a motor vehicle while in an intoxicated condition, or under the influence of intoxicating liquor or any drug or narcotic, as provided in Section 1746.1, Revised Codes of Montana, 1935, as amended by Chapter 198, Laws of 1943.

Section 2 of Chapter 129, Laws of 1937, provides conviction under Section 1746.1, Revised Codes of Montana, 1935, shall operate to suspend without notice of hearing the motor vehicle operator's license and all of the registration certificates of any person so convicted. The section further provides such licenses and registration certificates shall remain suspended and shall not thereafter be removed, nor shall any such license be thereafter issued to such motor vehicle operator or any motor vehicle be thereafter registered in his name until he shall have given proof of his ability to respond in damages for any liability thereafter incurred resulting from the ownership, maintenance, use or operation thereafter of a motor vehicle.

Section 1746.2, Revised Codes of Montana, 1935, as amended by Chapter 198, Laws of 1943, provides in part:

"Conviction of driving under the influence of intoxicating liquor shall

of itself forthwith operate as revocation of the driver's license to operate any motor vehicle and shall of itself render such license null and void, and the person so convicted and punished shall not be eligible to apply for or receive a license to operate any motor vehicle for thirty days from the date of such conviction."

The two acts are not irreconcilably in conflict. They have the same general purpose and relate to the same subject. If possible, they must be read together. (*State v. Bowker*, 63 Mont. 1, 205 Pac. 961; *Putnam v. Putnam*, 86 Mont. 135, 282 Pac. 855.) Statutes which are in pari materia must be construed together; all parts thereof being given effect if possible. (*Box v. Duncan*, 98 Mont. 216. 38 Pac. (2d) 986.)

Study of Section 1746.2, as amended, shows conviction for operating a motor vehicle under the influence of intoxicating liquor shall inevitably and with no exception operate as a revocation of a driver's license; and with equal clarity the section declares a person so convicted shall not be eligible to apply for or receive a license to operate a motor vehicle for thirty days from the date of conviction. Nothing therein states a person so convicted must be issued a driver's license after the expiration of such thirty day period. Section 2 of Chapter 129, Laws of 1937, provides the condition precedent to the re-issuance of a driver's license to a person convicted of operating a motor vehicle while under the influence of intoxicating liquor. That condition is such person's giving proof of his ability to respond in damages for any liability thereafter incurred resulting from the ownership, maintenance, use or operation thereafter of a motor vehicle.

Our legislative assembly has evidenced it feels the two sections are not in conflict and may be read together, for Section 9 of Chapter 198, Laws of 1943, page 384, provides punishment for the offense of driving while under the influence of intoxicating liquor shall be as provided by Section 1746.2 and subject to the provisions of Chapter 129, Laws of 1937.

It is therefore my opinion a person convicted under the provisions of Section 1746.1, Revised Codes of Montana, 1935, as amended by Chapter 198, Laws of 1943, of operating a motor vehicle

while under the influence of intoxicating liquor may apply for a driver's license thirty days from the date of such conviction; but such person so convicted shall not be eligible to receive such driver's license until he has complied with the provisions of Chapter 129, Laws of 1937.

Sincerely yours,  
R. V. BOTTOMLY,  
Attorney General