

Opinion No. 16

**Drivers License Law—Interpretation
of Statutes—Errors In Statutes.**

Held: The word “bi-annually” used in Section 1, sub-division (a) of Chapter 135, Session Laws of 1951, is an obvious error, and the word “biennially” should be substituted therefore in order to give effect to the manifest intention of the Legislature.

May 2nd, 1951

Mr. Harry H. Jones, Attorney
State Highway Commission
Helena, Montana

Dear Mr. Jones:

You have called my attention to an obvious error in Senate Bill 76 of the last Legislative Assembly. Senate Bill 76 will be Chapter 135, Session Laws of 1951 and is to take effect on December 31, 1951.

Chapter 135, supra, is an Act to amend Section 31-135, R. C. M., 1947, and the purpose of the Act is to provide for the issuance of drivers licenses every two years instead of annually as the law now provides.

Section I, sub-division (a) of the new law provides as follows:

"The Highway Patrol Board shall have authority to appoint county treasurers and other qualified officers to act as its agent or agents for the sale of drivers licenses, and shall make necessary rules and regulations governing such sales. The board shall, upon payment of three (\$3.00), issue to every applicant qualifying therefore, an operator's or chauffeur's license as applied for, which license shall be purchased bi-annually on or before the operator's or chauffeur's birthday, and shall expire on the anniversary of the date of birth of the operator or chauffeur, two (2) years or less after the date of issue, and shall bear thereon a distinguishing number issued to the licensee, the full name, date of birth, residence, address, and a brief description of the licensee and either a facsimile of the signature of the licensee or a space upon which he shall write his signature in pen and ink, immediately upon receipt of the license. No license shall be valid until it has been so signed by the licensee, but all operator's or chauffeur's license renewed in the year 1951 shall expire December 31, 1951." (Emphasis supplied)

The adverb "bi-annually" which I have emphasized is obviously a legislative error. The word "biannually", when correctly used is not hyphenated and is the adverbial form of the adjective "biannual", which means "occurring twice in one year." On the other hand, the word "biennially" is the adverbial form of the adjective "biennial", which means "occurring once every two years." Cf. Webster's New International Dictionary Second Edition.

That the Legislature intended to use the word "biennially" instead of "bi-annually" is apparent when the rest of the Act and the title of the Act are considered. A drivers license may not be purchased twice a year on the operator's birthday because the word "birthday" is commonly understood to mean the anniversary of one's birth, which occurs but once a year. Further, the title to the Act clearly indicates that the Legislature intended that henceforth drivers licenses were to be purchased "biennially" or once every two years, as the title provides "****Providing that after December 31, 1951, such operators and chauffeurs shall be licensed for two (2) years and that a license fee of three dollars (\$3.00) shall be charged for each license; ****". Sub-division (b) of the Act provides that every operator's or chauffeur's license shall be valid "for a term of two (2) years *** and shall be renewed for a like period on or before the second anniversary of the licensee's date of birth next succeeding the date of issue for a further period of two (2) years from such anniversary****".

While Section 93-401-15, R. C. M., 1947, provides that the office of the judge is not to insert what has been omitted or to omit what has been inserted, still Section 93-401-16, R. C. M., 1947, provides that in the construction of a statute the intention of the legislature is to be pursued if possible. The Montana Supreme Court has held that words may be changed in a statute in order to compel conformity with the intention of the legislature, *State ex rel. Hahn et al. v. District Court et al.* 83 Mont. 400, 272 Pac 525, *Pomeroy v. State Board of Equalization et al.* 99 Mont. 534, 45 Pac. (2nd) 316, *Hilburn v. St Paul, M. & M. Railway Co.* 23 Mont. 229, 245, 58 Pac. 811, *Barth v. Pock*, 51 Mont. 418, 115 Pac. 282.

Therefore, it is my opinion that since it is manifest from the fact of Chapter 135, Session Laws of 1951, that the use of the word "biannually" was but an error in the use of words that the statute should be read as if the word "biennially" had been used until such time as the Legislature meets and corrects this obvious error.

Very truly yours,
ARNOLD H. OLSEN
Attorney General