

Opinion No. 39

**Highway Patrol Board—Drivers
Licenses of Minors—Juvenile Courts
—Power to Suspend License of
Juveniles**

Held: It is not mandatory that the Highway Patrol Board revoke drivers licenses of juveniles under Section 31-146, Revised Codes of Montana, 1947, because juveniles may not be convicted of crimes except in a limited number of cases.

The Highway Patrol Board has the authority to suspend the drivers license of a person under eighteen years of age for any of the grounds set forth in Section 31-147, Revised Codes of Montana, 1947, whether or not there have been proceedings instituted against the minor in a juvenile court.

September 13th, 1951

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

Dear Mr. Jones:

You have requested my opinion on whether the Montana Highway Patrol Board has the power and authority to suspend the drivers license of an operator of a motor vehicle who is under eighteen (18) years of age.

Section 31-146 sets forth six grounds upon which it is mandatory for the Patrol Board to revoke the license of a motor vehicle operator. Each of these grounds requires a final conviction of a court as a condition precedent to revocation. Except for certain crimes

enumerated in subdivision (2) (a) of Section 10-602, Revised Codes of Montana, 1947, the district court acting as a juvenile court has exclusive original jurisdiction of matters involving violations of the law by juveniles. It is the express policy of the law to consider juvenile proceedings as not criminal in nature. Hence, if a juvenile is charged with operating a motor vehicle under the influence of intoxicating liquor he must be tried in a juvenile court. However, no conviction will result but rather the juvenile court will enter an appropriate judgment. Section 10-611, Revised Codes of Montana, 1947, specifically provides that "... No adjudication upon the status of any delinquent child in the jurisdiction of the court shall operate to impose any of the civil disabilities ordinarily imposed by conviction, nor shall any delinquent child be deemed a criminal by reason of such adjudication, nor shall such an adjudication be deemed a conviction, nor shall any child be charged with or convicted of any crime in any court except as provided in the preceding section of this act . . ." Hence, the provisions of Section 31-146, *supra*, are not applicable to juveniles. However, the juvenile court may, and perhaps should, order the Highway Patrol Board to revoke the juveniles drivers' license if he is adjudged guilty of any of the offenses enumerated in Section 31-146, *supra*.

Section 31-147, Revised Codes of Montana, 1947, grants to the Patrol Board authority to suspend licenses upon a showing by its records or other sufficient evidence that the licensee shall have committed any one of seven enumerated offenses. A conviction by a court is not a condition precedent to the board's exercise of its "suspension powers."

The right to operate motor vehicles in public places is not a natural and unrestrained right, but a privilege subject to reasonable regulations in the interest of the public under the police power of the state, 5 Am. Jur. 591. In the exercise of its police power the State of Montana requires operators and chauffeurs to obtain a driver's license, and persons under 21 years of age are only granted "provisional licenses." Section 31-135, Revised Codes of Montana, 1947. It is unlawful for minors under fifteen years of age to purchase driver's licenses without prior

permission of the supervisor of the highway patrol. Section 31-111, Revised Codes of Montana, 1947, requires parents to assume responsibility for the negligence or wilful misconduct of their minor children under eighteen years of age when driving a motor vehicle upon the highways. Thus, it is apparent that the legislative policy of this State, like States elsewhere, is to restrict and carefully circumscribe the rights of minors to operate motor vehicles. Human experience has demonstrated the wisdom of such a policy.

Therefore, it is my opinion that the Montana Highway Patrol Board has the authority by virtue of Section 31-147, Revised Codes of Montana, 1947, to suspend the driver's license of persons under eighteen years of age for any of the enumerated grounds set forth in that section. The power to suspend such licenses may be exercised whether or not there have been any proceedings instituted before a juvenile court of this State. The minor has the right to a hearing before the Board, and may appeal the decision of the Board to the district court. Section 31-152, Revised Codes of Montana, 1947.

Very truly yours,
ARNOLD H. OLSEN
Attorney General