

Opinion No. 58**Motor Vehicles—Drivers' Licenses of
Minors—Vicarious Liability of
Parents—Renewal of Licenses.**

- Held:** 1. That signature of a parent or guardian on the original application of a minor for a driver's license binds the parents for the damages incurred in accidents caused by the negligence of the minor only for the term for which the original license is issued.
2. The parents or guardians of a minor must not only sign the original application of a minor for a driver's license, but must also sign the application for renewal of the license if the applicant is under eighteen (18) years of age at the time application is made for renewal.

January 19, 1952.

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

Dear Mr. Jones:

You have requested my opinion on the following question:

“Does the signature of a parent or guardian on the original application of a minor for a drivers license continue to bind the parent when the minor is operating under a license that has been renewed?”

Section 31-131, Revised Codes of Montana, 1947, provides in part as follows:

“Application Of Minors. (a) The application of any person under the

age of eighteen (18) years for an instruction permit or operator's license shall be signed and verified before a person authorized to administer oaths by both the father and mother of the applicant, if both are living and have custody of him, or in the event neither parent is living by the person or guardian having such custody or by an employer of such minor, or in the event there is no guardian or employer then by other responsible person who is willing to assume the obligation imposed under this act upon a person signing the application of a minor.

(b) Any negligence or wilful misconduct of a minor under the age of eighteen (18) years when driving a motor vehicle upon a highway shall be imputed to a person who has signed the application of such minor for a permit or license, which person shall be jointly and severally liable with such minor for any damage caused by such negligence or wilful misconduct ***."

Statutes similar, if not identical, to Section 31-131, supra, have been enacted in many states. These statutes are in derogation of the common law and under familiar rules of statutory construction are to be construed strictly. Generally a parent is not liable for the torts of his children. However, these statutes which impute liability to parents are predicated upon the proposition that the public should be protected from damage resulting from the great number of automobile accidents caused by the indiscretion of youth. Minors are seldom financially responsible and hence the legislatures of many states have imposed vicarious liability upon the parents of youthful drivers.

Drivers licenses are issued for one year in Montana under the law now in effect, and are renewable on or before the expiration date upon the payment of the required fee. Section 31-139, Revised Codes of Montana, 1947.

The question arises as to whether liability will continue to be imputed to the parent who, having signed the original application of the minor, does not sign the application for renewal? The general rule is that statutory liability should not be extended beyond that which is clearly indicated by the express terms or necessary implication

from the language used. 50 Am. Jur. 426. Our statute does not provide that the liability will continue beyond the original license issued. Further, Section 31-139, supra, contemplates a new "application" for a renewal of a license. The Supreme Court of Mississippi construing an identical statute held that the liability of the parents did not exist after the license of the minor had expired. *Houston v. Holmes*, 32 So. (2d) 138. See also, 60 C. J. S. 1145.

A further reason why the liability of the parents should not be extended is that the law in effect requires the parents to assume the position of gratuitous guarantors and hence the statute should be construed most favorably to the guarantor in accordance with the general rule for construing guaranty contracts.

Therefore, it is my opinion that the signature of a parent or guardian on the original application of a minor for a drivers license binds the parents for the damages incurred in accidents caused by the negligence of the minor only for the term for which the original license is issued.

The parents or guardians of a minor must not only sign the original application of a minor for a driver's license, but must also sign the application for renewal of the license if the applicant is under eighteen (18) years of age at the time application is made for renewal.

Very truly yours,
ARNOLD H. OLSEN
Attorney General