

VOLUME NO. 34

Opinion No. 19

MOTOR VEHICLES - Computation of registration grace period upon purchase of a motor vehicle. Section 53-109.4, R.C.M. 1947.

HELD: The 10-day registration grace period, referred to in section 53-109.4, R.C.M. 1947, for securing registration and registration plates for a new or used motor vehicle, refers to ten consecutive or calendar days.

October 7, 1971

Mr. William J. Krutzfeldt
Custer County Attorney
Miles City, Montana 59301

Dear Mr. Krutzfeldt:

You have requested my opinion as to whether the ten-day grace period provided in section 53-109.4, Revised Codes of Montana, 1947, refers to ten calendar days.

Section 53-109.4, R.C.M. 1947, states in pertinent part:

“Grace period - Penalty. Any purchaser of a new or used motor vehicle from a duly licensed motor vehicle dealer shall have the grace period of ten (10) days from the date of purchase to make application for registration and to obtain registration plates, and it shall not be a violation of this chapter or any other law for such purchaser to operate such vehicle upon the streets and highways of this state without a certificate or registration and registration plates during the said ten (10) day period . . .”

Although the issue of whether the definition of the term “days” refers to consecutive or calendar days has never been specifically determined in Montana, courts in other jurisdictions have considered the question. In *Dinkler v. Jenkins*, 118 Ga. App. 239, 163 S.E.2d 443, 450 (1968), the court held that the word “day” in a statute, when not qualified, generally means “a calendar or civil day consisting of 24 hours from midnight to midnight.” Also, in *Booker v. Chief Engineer of Fire Dept. of Woburn*, 324 Mass 264, 85 N.E.2d 766, 767 (1949), the court stated: “It has generally been held that the word ‘day’ when not qualified means calendar day.” Again, in *Long v. City of Wichita Falls*, 142 Tex. 202, 176 S.W.2d 936, 938 (1944), it was held: “It is true that ordinarily the word ‘day’ as used in the law, means a calendar day, and includes the time elapsing from one midnight to the successive one.”

In Montana, the term “day” is defined by statute in section 90-405, R.C.M. 1947, which provides: “A day is the period of time between any midnight and the midnight following.” Section 90-404, R.C.M. 1947, in defining a week states: “A week consists of seven consecutive days.”

At this point it is helpful to examine the case of *State ex rel. Bevan v. Mountjoy*, 82 Mont. 594, 602, 268 Pac. 558 (1928). In quoting from the case of *Cowie v. Means*, 39 Colo. 1, 88 Pac. 485, the Montana court supported the following proposition:

“ ‘ Running through the great majority of the cases in relation to the computation of time, we find this doctrine either directly expressed or indirectly acquiesced in, namely, that it is the desire of the courts to carry out the intention of the legislature and the parties, and that this intention is to be gathered not only from the language used in the provision under consideration, but from the context as well, and whenever it is apparent that only clear days are meant, this intention will be carried out . . . ’ ”

Thus, given the definition of the term “day” in section 90-405, *supra*, and considering the language and context of section 53-109.4, *supra*, it would appear that the term “days” as used in section 53-109.4,

refers to calendar days since there is no specific language to the contrary and no qualifying language which would require a different interpretation.

In computing the length of the grace period, section 90-407, R.C.M. 1947, must be considered. This section states, "The time in which any act provided by law is to be done is computed by excluding the first day and including the last, unless the last day is a holiday, and then it is also excluded." Holidays are specifically defined under section 19-107, R.C.M. 1947.

THEREFORE, IT IS MY OPINION that the term "day" as used in section 53-109.4, supra, in reference to a ten-day grace period, means ten consecutive or calendar days. Further, in computing this ten-day period, the period shall commence on the day after the purchase of a motor vehicle and shall end on the tenth day thereafter unless the tenth day shall fall on a holiday as defined in section 19-107, supra, in which case the day immediately following shall be construed as the final day of the grace period.

Very truly yours,

ROBERT L. WOODAHL
Attorney General