VOLUME NO. 35 **Opinion No. 73**

SCHOOLS AND SCHOOL DISTRICTS — School bus drivers, age requirement; HIGHWAY PATROL — Chauffeur's license, school bus drivers, age requirement. Sections 31-128 and 75-7003, R.C.M. 1947.

HELD: An individual must be eighteen years of age or older to qualify as a school bus driver.

March 18, 1974

Mr. J. Fred Bourdeau
Cascade County Attorney
County Courthouse
Great Falls, Montana 59401

Dear Mr. Bourdeau:

You have requested my opinion as to the age requirements for an individual to qualify as a school bus driver.

Montana law has two directly conflicting provisions regarding the age requirement for school bus drivers. Both provisions are specific statutes concerning school bus driver age qualifications. Enacted in 1971, section 75-7003, Revised Codes of Montana, 1947, provides in pertinent part:

> Any driver of a school bus shall be qualified to drive such school bus by compliance with the following requirements:
> (1) he is not less than twenty-one (21) years of age ...

However, under the classification of chauffeurs provision of the Montana Highway Patrol chapter of the revised codes, section 31-128 (b) states:

> (b) No person who is under the age of eighteen (18) years shall drive any school bus transporting school children or any motor vehicle when in use for the transportation of persons for compensation nor in either event until he has been licensed as a chauffeur for either such purpose and the license so indicates. The board shall not issue a chauffeur's license for either such purpose unless the applicant has had at least one (1) year of driving experience prior thereto and the board is fully satisfied as to the applicant's competency and fitness to be employed.

This particular section was amended in 1973 reducing the age requirement specified therein from twenty-one to eighteen years. Rules of statutory construction provide that earlier statutes to the extent of any repugnancy are controlled by later statutes. **State ex rel. Wiley v. District Court,** 118 Mont. 50, 164 P.2d 358 (1946).

Furthermore, the Constitution of Montana now provides at Article II, Section 14, that a person 18 years of age or older is an adult for all purposes. In light of the new constitution it is only logical that the legislature intended to reduce the minimum age requirement for school bus drivers from twenty-one to eighteen years of age. However, although the age requirement contained in section 75-7003 (1), supra, may now be repealed by implication, the other provisions pertaining to qualifications of school bus drivers contained in that section, including subsection (6), are still valid.

THEREFORE, IT IS MY OPINION:

An individual must be eighteen years of age or older to qualify as a school bus driver.

Very truly yours,
ROBERT L. WOODAHL
Attorney General