

VOLUME NO. 36

Opinion No. 39

FINES — Fish and game violations, disposal of fines by court; FISH AND GAME — Criminal violations — Treasurer, fines remitted to; FISH AND GAME — Fish and Game Commission — Payment of fines to by court; Sections 26-104, 26-121, 26-1001, R.C.M. 1947.

HELD: A court imposing a fine in a fish and game violation case must pay the money collected to the fish and game commission.

November 7, 1975

Mr. Charles Joslyn
Teton County Attorney
Larson Building
Choteau, Montana 59422

Dear Mr. Joslyn:

This is in response to your inquiry regarding the disposition of fines by a district court in a game violation case.

As you have noted, the 1973 amendment to section 26-1001 deleted the provision for payment of fish and game fines to the state game warden, who in turn paid them over to the state treasurer for proper deposit. Hence your question: To whom should the court now pay the money collected from such fines?

The answer to this is supplied by two companion statutes. Section 26-104 provides:

(3). . .Moneys collected or recieved from the sale of hunting and fishing licenses or permits, from the sale of seized game or hides, **from fines or damages collected for violations of the fish and game laws, from appropriations, or received by the (fish and game) commission from any other sources** are appropriated to and under control of the commission. (Empahsis added)

Nearly identical language is found in section 26-121. It appears the legislature intends the fish and game commission to initially receive all moneys from each of the sources enumerated in subsection (3), above. That is, fine moneys as well as license moneys, proceeds from the sale of seized game or hides, and appropriations are to be "received by the commission". After receipt of these moneys, the commission must still remit them to the state treasurer. Section 26-121.

THEREFORE, IT IS MY OPINION:

A court imposing a fine in a fish or game violation case must pay the money collected to the fish and game commission.

Very truly yours,

ROBERT L. WOODAHL
Attorney General