

VOLUME NO. 37

OPINION NO. 18

COUNTIES - Insurance expense and coverages for privately owned vehicles used by deputy sheriffs on official business;
INSURANCE - Coverages required; payment for, on privately owned vehicles used by deputy sheriffs on official business;
SHERIFFS - Insurance expense and coverage on privately owned vehicles used on official business; REVISED CODES OF MONTANA, 1947 - Section 16-2725.

- HELD: 1. A county may satisfy the requirements of section 16-2725, R.C.M. 1947, by requiring deputy sheriffs to individually purchase insurance coverage described in section 16-2725 for their private vehicles and paying or reimbursing each deputy for that portion of the premium which approximates the time the vehicle is used on official business.
2. If "no-deductible" comprehensive and collision coverages are available, section 16-2725, R.C.M. 1947, requires the purchase of the "no-deductible" coverages. In the alternative, deductible coverages may be purchased if the county reimburses its deputy sheriffs the amount of the deductible for repairs which are necessitated by job related, insured damages.
3. If "no-deductible" comprehensive and collision coverages are unavailable, the county must reimburse its deputy sheriffs the amount of the deductible for repairs which are necessitated by job related, insured damages.

21 April 1977

Robert L. Fletcher, Esq.
Sanders County Attorney
Sanders County Courthouse
Thompson Falls, Montana 59873

Dear Mr. Fletcher:

You have requested my opinion concerning the following questions:

1. Does a county satisfy the requirements of section 16-2725, R.C.M. 1947, by paying a lump sum to sheriff's deputies who then purchase automobile liability, collision and comprehensive coverage described in section 16-2725?
2. How may the requirement of section 16-2725, R.C.M. 1947, that insurance provide..."(f) full comprehensive and collision coverage..." be satisfied when "no-deductible" collision coverage has been unavailable in the insurance industry for some time and "no-

deductible" comprehensive coverage is being phased out by most insurance companies?

3. If an insurance policy procured in satisfaction of the requirements of section 16-2725, R.C.M. 1947, has a deductible amount, is the county obligated to reimburse a deputy sheriff for the amount of deductible paid by him in connection with a claimed loss which occurs while he is on official business?

Section 16-2725, R.C.M. 1947, provides:

The board of county commissioners shall provide liability insurance for not more than one (1) privately owned vehicle used by the sheriff, not more than one (1) privately owned vehicle used by the undersheriff, and not more than one (1) privately owned vehicle used by each deputy sheriff when the vehicles are used on official business. The insurance shall be paid for from county funds and shall provide full comprehensive and collision coverage plus minimum coverage of one hundred thousand dollars (\$100,000) for each person for bodily injury and medical expenses, three hundred thousand dollars (\$300,000) for all persons per accident, and fifty thousand dollars (\$50,000) per accident for property damage. This section shall not apply to counties furnishing motor vehicles to the sheriff's department pursuant to the provisions of section 16-2724, R.C.M. 1947.

Your first question concerns the manner in which county commissioners may fulfill their statutorily mandated responsibilities under section 16-2725, R.C.M. 1947. Ordinarily, where no mode or method is prescribed by statute, county commissioners may adopt any appropriate and reasonable method to carry out their statutory duties and powers. Thompson v. Gallatin County, 120 Mont. 263, 270, 184 P.2d 263 (1947). 34 OP. ATT'Y GEN. NO. 34 considered the powers of county commissioners under section 16-2725. In that opinion the Attorney General stated:

Your third question involves who will pay the premium for such insurance so required. The statute provides that the insurance shall be

provided by the board "...when the vehicles are used on official business...." It seems clear that the legislature intended the word "when" to mean "during the time." In other words, the board is only obligated to pay that portion of the premium for insurance that in the board's opinion approximates the time such vehicle will be used on official business. The county can pay its proportionate share of a blanket group policy on all eligible cars in the county with the sheriff, undersheriff, and deputy sheriffs paying their share, or the board can require each eligible individual to obtain his own insurance and make a claim to the county for reimbursement of the county's applicable share as hereinabove provided. Therefore, in answer to your third question, it is my opinion that the board is obligated to pay only that portion of the premium for such insurance that in the board's opinion approximates the time such vehicle will be used on official business during the policy period.

Therefore, the county commissioners may discharge their statutory responsibilities by requiring each deputy sheriff to purchase his own insurance and paying or reimbursing each deputy for the portion of his premium which approximates the time his vehicle will be used on official business during the policy period.

Your second and third questions concern the purchase of comprehensive and collision insurance with a deductible amount.

Section 16-2725 requires that "full comprehensive and collision coverage be provided." Whether a county is required to furnish or pay for "no-deductible" comprehensive and collision coverage is dependent upon the meaning of "full comprehensive and collision coverage." The words must be given their plain, general and accepted meaning. Cosgrove v. Industrial Indemnity Company, 33 St. Rptr. 675, 679, 522 P.2d 622 (1976). The word "full" means "having within its limits all that it can contain," or "complete." If "no-deductible" comprehensive and collision insurance is available, the statute is clear and unambiguous, it requires purchase of the "no-deductible" coverage. In the alternative, a county may purchase a coverage with a deductible and self-insure in the amount of the deductible; under this plan the county would reimburse a deputy sheriff for the deduc-

tible when his vehicle is damaged during use on official business.

Difficulty in statutory interpretation only arises where "no-deductible" coverage is unavailable: Does "full" coverage mean "as full as is available," or does it mean that a loss must be covered dollar for dollar? In determining the meaning, it is a fundamental rule of statutory construction that the intention of the Legislature controls. Security Bank & Trust Co. v. Connors, 33 St. Rptr. 501, 506, 550 P.2d 1313 (1976). Intention must be determined from the words used in the provision, Id., and from the apparent purpose of the statute, Fulton v. Farmers Union Grain Terminal Association, 140 Mont. 523, 537, 374 P.2d 231 (1962). Since "full comprehensive and collision coverage" is ambiguous in the situation described, the purpose of section 16-2725 controls. The purpose is to relieve deputy sheriffs from the financial burden of paying for damages to their private vehicles which occur while on official business and place that burden on the county. The cost of repairs to vehicles used on sheriff's business is a cost of sheriff's operations. If the county provides deputy sheriffs with county owned or leased vehicles, as permitted by section 16-2723, R.C.M. 1947, the county is directly responsible for repairs to its vehicles. Section 16-2725 merely places the identical responsibility upon the county when in lieu of purchasing or leasing vehicles for deputy sheriffs, it requires the deputies to utilize their own vehicles. Although section 16-2725 does not impose direct liability upon the county for paying for job related vehicle damage, it does so indirectly by requiring the county to furnish "full comprehensive and collision insurance." Therefore, if "no-deductible" comprehensive and collision coverages are unavailable, the county must reimburse its deputy sheriffs in the amount of the deductible for those repairs which are necessitated by job related, insured damages.

THEREFORE, IT IS MY OPINION:

1. A county may satisfy the requirements of section 16-2725, R.C.M. 1947, by requiring deputy sheriffs to individually purchase insurance coverage described in section 75-2725 for their private vehicles and paying or reimbursing each deputy for that portion of the premium which approximates the time the vehicle is used on official business.

2. If "no-deductible" comprehensive and collision coverages are available, section 16-2725, R.C.M. 1947, requires the purchase of the "no-deductible" coverages. In the alternative, deductible coverages may be purchased if the county reimburses its deputy sheriffs the amount of the deductible for repairs which are necessitated by job related, insured damages.
3. If "no-deductible" comprehensive and collision coverages are unavailable, the county must reimburse its deputy sheriffs the amount of the deductible for repairs which are necessitated by job related, insured damages.

Very truly yours,

MIKE GREELY
Attorney General