

VOLUME NO. 37

OPINION NO. 64

JUSTICE COURTS - Disposition of fines and forfeitures for violation of the 55 mile per hour speed limit, Crime Victims' Compensation Account; CRIME VICTIMS' COMPENSATION ACCOUNT - Justice Courts, disposition of fines and forfeitures for violation of the 55 mile per hour speed limit; REVISED CODES OF MONTANA, 1947 - Sections 32-2144.6(1), 72-2601, 75-7902.

HELD: Payments to the Crime Victims Compensation Account are to be calculated as six percent of the total of all non-parking motor vehicle fines and bail forfeitures, including fines and forfeitures for violations of the 55 mile per hour speed limit.

12 September 1977

Harold F. Hanser, Esq.
Yellowstone County Attorney
Yellowstone County Courthouse
Billings, Montana 59101

Dear Mr. Hanser:

You have requested my opinion concerning the following question:

Should justice courts include fines and bail forfeitures for violation of the 55 mile per hour speed limit in calculating payments to the Crime Victims Compensation Account?

Section 25, chapter 527, Laws, 1977, (codified at section 72-2601, et seq., R.C.M., 1947), creates a Crime Victims Compensation Account in the State's Earmarked Revenue Fund, and provides:

There shall be paid into this account 6% of the fines assessed and bails forfeited on all offenses involving a violation of a state statute or a city ordinance relating to the operation or use of motor vehicles, except offenses relating to parking of vehicles.

This statute might be interpreted as requiring court officials to pay six percent of each individual fine or bail

forfeiture into the account, or to total all such fines and forfeitures and pay six percent of the total. The effect of both procedures would seem to be the same, but in fact the first interpretation creates a conflict among statutes which the second avoids.

Section 32-2144.6(1), R.C.M. 1947, imposes a five dollar fine for violation of the 55 mile per hour speed limit, and also directs that four dollars of this amount shall be retained as fees for the justice court:

A person violating the speed limit imposed pursuant to section 32-2144.1 is guilty of the offense of unnecessary waste of a resource currently in short supply and upon conviction shall be fined five dollars (\$5) and no jail sentence may be imposed. Bond for this offense shall be five dollars (\$5).

For the purpose of this section only, the fees of the justice court shall be four dollars (\$4) to be remitted as set forth in section 25-311.

Section 32-2144.6 disposes of eighty percent of each of the five-dollar fine it imposes. The other twenty percent of the fine is paid to the Traffic Education Account, as provided by section 75-7902, R.C.M. 1947:

There is hereby established a traffic education account in the treasury of the state of Montana. There shall be paid into this account a portion of the fines assessed and bails forfeited on all offenses involving a violation of a state statute or city ordinance relating to the operation or use of motor vehicles, except offenses relating to parking of vehicles, in the following amounts:

- (1) where a fine is imposed, twenty per cent (20%) of the fine imposed;
- (2) where multiple offenses are involved, twenty per cent (20%) of the total sum of all fines imposed;
- (3) where a fine is suspended, in whole or in part, the portion paid to the traffic education account shall be twenty per cent (20%) of the fine actually paid; and
- (4) when any deposit of bail is made for an offense to which this section applies and the bail is forfeited, twenty per cent (20%) of the forfeited bail.

If chapter 527, Laws, 1977, is interpreted as requiring that six percent of each fine must be paid to the Crime Victims Compensation Account, the result will be that the Legislature has apportioned 106% of every fine imposed by section 32-2144.6. In other words, such an interpretation would create a conflict among the statutes.

Statutes which deal in different ways with the same subject matter (for example, statutes which deal in different ways with the same traffic fines), "are in pari materia and must be construed together with reference to the whole subject matter and made to harmonize, if this can be consistently done." State ex rel. McHale v. Ayers, 111 Mont. 1, 5, 105 P.2d 686 (1940).

Chapter 527 cannot be harmonized with sections 32-2144.6 and 75-7902 by construing it as requiring that six percent of each non-parking motor vehicle fine and forfeiture be paid to the Crime Victims Compensation Account, excluding 55 mile per hour speed limit violations. Since chapter 527 itself does not exclude speeding violations, this interpretation would require an impermissible addition of words to the statute.

It is a general rule of statutory construction that the function of the court is to interpret the intention of the legislature, if at all possible, from the plain meaning of the words used; the court is not at liberty to add or detract language from the statute in question.

State v. Finley, 164 Mont. 268, 270, 521 P.2d 198 (1974).

A harmonious interpretation construes chapter 527 as requiring that six percent of the total of all non-parking motor vehicle fines and forfeitures shall be paid to the Crime Victims Compensation Account. This interpretation is consistent with the plain meaning of the words of the statute. It does not require the addition of any words, and it avoids conflict with any other statutes, since it does not require apportionment of more than 100% of any particular fine.

Finally, this interpretation is the one which most adequately fulfills the purpose of the Act. Section 2 of chapter 527 provides in part:

It is the intent of the legislature of this state to provide a method of compensating and assisting those persons within the state who are innocent victims of criminal acts and who suffer bodily injury or death.

This purpose will be more fully realized by including speeding fines in the funding source than by excluding them, because more money will be available for compensation of victims. The statute is clearly remedial in nature, and must be construed to fulfill its purpose.

Generally, statutes of this nature providing a remedy for those who may have been taken advantage of have been liberally construed in favor of the persons whom they are designed to protect.

Bullard v. Garvin, 1 Ariz.App. 249, 401 P.2d 417, 419 (1965).

THEREFORE, IT IS MY OPINION:

Payments to the Crime Victims Compensation Account are to be calculated as six percent of the total of all non-parking motor vehicle fines and bail forfeitures, including fines and forfeitures for violations of the 55 mile per hour speed limit.

Very truly yours,

MIKE GREELY
Attorney General