

VOLUME NO. 37

OPINION NO. 93

SCHOOLS - Transportation of pupils; SCHOOLS BUSES - Duty to display flashing lights when stopped on highway; REVISED CODES OF MONTANA, 1947 - Section 32-2197(b).

HELD: Senate Bill 332, chapter 244, Montana Session Laws of 1977, does not alter section 32-2197, R.C.M. 1947, and red lights on school buses need not be

activated when a bus is stopped to load or unload students inside the corporate limits of a city or town. However, it is appropriate to maintain flashing amber lights on such vehicle while stopped to load or unload children as a warning to motorists in the interest of safety.

22 November 1977

Terry F. Brown
Pupil Transportation Safety Consultant
Office of Public Instruction
State Capitol
Helena, Montana 59601

Dear Mr. Brown:

You have requested my opinion on the following question:

Does passage of Senate Bill 322 by the 1977 Montana Legislature mean that school bus drivers may no longer use flashing red lights when loading or unloading school children within the corporate limits of a Montana city or town.

The section of Montana law dealt with in Senate Bill 322 was section 32-2197(b), R.C.M. 1947. Before amendment the section said:

...Amber flashing lights shall be actuated by the driver approximately one hundred and fifty (150) feet in cities, and approximately five hundred (500) feet in other areas before the bus is stopped to receive or discharge school children. Red lights shall be actuated by the driver of said school bus whenever such vehicle is stopped on the highway for the purpose of receiving or discharging school children.

The change made by Senate Bill 322 is a minor one. The section now reads:

...Amber flashing lights shall be actuated by the driver approximately 500 feet before the bus is stopped to receive or discharge school children on the highway. Red lights shall be actuated by the driver of said school bus whenever such vehicle is stopped on the highway for the purpose of receiving or discharging school children.

The only change made in section 32-2197(b) by Senate Bill 322 is the removal of that portion which called for amber lights to be "actuated by the driver approximately 150 feet in cities." Brief testimony at a hearing on this matter before the House Highway and Transportation Committee on March 3, 1977, indicates the language was stricken to eliminate a conflict with subsection (a) of the same law.

Subsection (a) of the same section says:

(a) The driver of a vehicle upon a highway outside the corporate limits of any city or town upon meeting or overtaking from either direction any school bus which has stopped on the highway for the purpose of receiving or discharging any school children shall stop the vehicle before reaching such school bus when there is in operation on said bus a visual flashing red signal....

An inherent conflict in the statute existed prior to the amendment, since subsection (a) confined the duty of an approaching driver to stop at areas outside the corporate limits of any city or town while subsection (b) made provisions for the bus drivers to use red warning lights within cities and towns. While subsection (b) allowed warning lights inside city limits, subsection (a) made it clear that drivers of approaching automobiles within the limits of incorporated cities and towns were not required to obey such signals.

Additionally common sense dictates such a reading of the statute since on heavily traveled streets in many of the state's larger cities traffic from both directions would be halted when school buses were stopped with red lights flashing causing tremendous traffic control problems.

It appears that while drivers may not activate the red lights and certainly drivers of approaching vehicles need not obey such lights inside city limits there is nothing which prevents drivers of school buses from maintaining activated amber lights while stopped inside city limits as a warning to other motorists in the interest of safety of the school children involved.

THEREFORE, IT IS MY OPINION:

Senate Bill 322, chapter 244, Montana Session Laws of 1977, does not alter section 32-2197, R.C.M. 1947, and red lights on school buses need not be activated when a

bus is stopped to load or unload students inside the corporate limits of a city or town. However, it is appropriate to maintain flashing amber lights on such vehicle while stopped to load or unload children as a warning to motorists in the interest of safety.

Very truly yours,

MIKE GREELY
Attorney General