

VOLUME NO. 38

OPINION NO. 104

HIGHWAYS - School bus operation;

SCHOOL BUSES - Operation on highways, covering or concealing
"school bus" markings;

MONTANA CODE ANNOTATED - Section 61-8-351(3).

HELD: "School bus" markings need not be covered or
concealed where school buses are being utilized to
transport children to or from school on school-
sponsored field trips or in connection with school
athletic events or other authorized activities.

9 September 1980

James C. Nelson, Esq.
Glacier County Attorney
Glacier County Courthouse
Cut Bank, Montana 59427

Dear Mr. Nelson:

You have requested my opinion on the following question:

Whether section 61-8-351(3), MCA, requires "school bus" markings to be covered or concealed where school buses are being utilized on school-sponsored field trips or for transportation of school children to and from school athletic events or other authorized activities.

The statute in question, section 61-8-351(3), MCA, provides:

When a school bus is being operated upon a highway for purposes other than the actual transportation of children either to or from school all markings thereon indicating "SCHOOL BUS" shall be covered or concealed.

Your question turns on whether the purposes you describe are "purposes other than the actual transportation of children either to or from school" as that phrase is used in section 61-8-351(3), MCA. In the Education title the term "transportation" has a specific meaning and is limited to the conveyance of a pupil between his legal residence and the school he attends. § 20-10-101(1), MCA. Under section 1-2-107, MCA, this definition applies throughout the Code unless a contrary intention plainly appears. In my opinion such a contrary intention does appear. The two sections, 20-10-101(1) and 61-8-351(3), MCA, are not in pari materia; they govern different subjects. "Transportation to or from school" is plainly broader than conveyance between a legal residence and school. It has long been the rule that legislative intent governs the interpretation of a statute, and that such intent must, if possible, be determined from the plain meaning of the words used. Haker v. Southwestern Ry. Co., ___ Mont. ___, 578 P.2d 724, 727 (1978). In many cases, a child who is being transported on a school-sponsored field trip or to and from school athletic events or other authorized activities is being transported "to or

from school" in connection with the activity. Accordingly, where school buses are being utilized for such purposes, their "school bus" markings need not be covered or concealed pursuant to section 61-8-351(3), MCA.

However, where school buses are being utilized for purposes that do not involve transporting children either to or from school, section 61-8-351(3), MCA, would apply. If a school bus is being used to transport a group of teachers, or an adult booster group to or from an athletic event or other activity, for example, the "school bus" markings must be covered or concealed. There may be circumstances in which a school bus is being used to transport children and the children are not being taken to or from school, such as where a civic group utilizes school buses as part of a recreational activity. Here too, "school bus" markings must be covered or concealed in accordance with section 61-8-351(3), MCA. The particular facts of a given situation control.

THEREFORE, IT IS MY OPINION:

"School bus" markings need not be covered or concealed where school buses are being utilized to transport children to or from school on school-sponsored field trips or in connection with school athletic events or other authorized activities.

Very truly yours,

MIKE GREELY
Attorney General