

VOLUME NO. 38

OPINION NO. 21

LICENSES - Applicability of new car sales tax to disabled veterans;

VETERANS - Free license plates, applicable taxes;

MONTANA CODE ANNOTATED - Sections 10-2-301, 61-3-502.

HELD: A disabled veteran who qualifies under section 10-2-301, MCA, may receive free license plates for a new motor vehicle upon payment of a one percent personal property tax, and without payment of a new motor vehicle sales tax imposed under section 61-3-502, MCA.

15 June 1979

Chester L. Jones, Esq.
Madison County Attorney
Madison County Courthouse
Virginia City, Montana 59755

Dear Mr. Jones:

You have requested my opinion on a question which I have phrased as follows:

May a disabled veteran receive free license plates for a new motor vehicle without payment of the new motor vehicle sales tax?

Section 10-2-301, MCA, provides that veterans who suffer from a one hundred percent service connected disability "shall be provided free license plates upon payment of personal property tax equal to one percent of the taxable value for such automobile or truck and upon proof of one hundred percent service connected disability." Your question arises from the apparent conflict between this provision and section 61-3-502, which creates a "new motor vehicle sales tax" to be collected from the owners of new vehicles in lieu of the personal property tax. The Division of Motor Vehicles has apparently taken the position that a disabled veteran must pay the new motor vehicle sales tax in order to receive license plates under section 10-3-301.

In reconciling this conflict, I am mindful that the people of Montana have specifically recognized the propriety of conferring special privileges and considerations on veterans.

Article II, section 35 of the 1972 Montana Constitution provides, "The people declare that Montana servicemen, servicewomen, and veterans may be given special considerations determined by the legislature." As I noted in 37 Op. Att'y Gen. No. 167 (1978), this provision constitutes a "strong statement of public policy" in favor of veteran's preference legislation.

Your question presents a conflict between partially overlapping general and special statutes. Section 61-3-502, MCA, is a statute of general application governing the taxation of new motor vehicles. It provides that normally, a sales tax and not a property tax will be levied on new motor vehicles. Section 10-2-301, MCA, in contrast, is a special statute dealing with the registration and licensing of motor vehicles, including new motor vehicles, belonging to qualifying veterans. The conflict in these provisions may be resolved by reference to the rule stated by the Montana Supreme Court in City of Billings v. Smith, 158 Mont. 197, 211, 490 P.2d 221 (1971):

Where one statute deals with a subject in general and comprehensive terms, and another deals with a part of the same subject in a more minute and definite way, the latter will prevail over the former to the extent of any repugnancy.

Here, the special registration and licensing provisions of section 10-2-301, MCA, must control the registration and licensing of vehicles owned by qualifying veterans. This is

especially true in light of the strong policy in favor of veteran's preference legislation and the fact that the special statute was enacted after adoption of the general statutory scheme. State v. Holt, 121 Mont. 459, 476, 194 P.2d 651 (1948).

Section 10-2-301, MCA, allows a qualifying veteran to receive "free license plates" upon satisfaction of two conditions, (1) proof of one hundred percent service connected disability; and (2) payment of a one percent personal property tax. It was obviously the intent of the Legislature to allow qualifying veterans to register and license their vehicles, new and used, upon satisfaction of these conditions and no others.

THEREFORE, IT IS MY OPINION:

A disabled veteran who qualifies under section 10-2-301, MCA, may receive free license plates for a new motor vehicle upon payment of a one percent personal property tax, and without payment of a new motor vehicle sales tax imposed under section 61-3-502, MCA.

Very truly yours,

MIKE GREELY
Attorney General