

VOLUME NO. 40

OPINION NO. 5

MOTOR VEHICLES - Liability insurance requirements imposed on owners of motor vehicles registered and operated in Montana;

MOTOR VEHICLES - Punishment of owner and operator under mandatory liability insurance requirements;

MONTANA CODE ANNOTATED - Sections 61-6-301, 61-6-302, 61-6-304.

- HELD: 1. The owner of a motor vehicle must purchase a liability policy for each vehicle he owns.
2. An individual may be cited and convicted for failure to have liability insurance if he is discovered operating a third party's uninsured motor vehicle.

18 February 1983

Jim Nugent
Missoula City Attorney
201 West Spruce Street
Missoula MT 59802

Dear Mr. Nugent:

You have requested my opinion on the following questions:

1. If the owner of a motor vehicle purchases liability insurance for only one of two or more vehicles that he owns, is the liability insurance policy purchased for the one vehicle applicable to his other motor vehicles when he is operating one of them?
2. If an individual has motor vehicle liability insurance on his own vehicle(s) but is discovered operating a third party's uninsured vehicle, may the person be cited and convicted for failure to have liability insurance?

Mandatory liability insurance provisions are set forth in Title 61, chapter 6, part 3, MCA. The questions you ask raise the issue of whether liability insurance is personal and portable or whether it attaches to the car only. The scope of coverage of a liability insurance policy can only be defined by referring to the policy itself. Your questions will be answered only with reference to the statutory mandatory liability requirements.

It is well settled that in construing a statute, the intention of the Legislature controls and that intent is to be determined, if possible, from the plain meaning of the words used in the statute. State ex rel. Zander v. District Court, 181 Mont. 454, 591 P.2d 656 (1979). In addition, statutes are to be read and considered in their entirety so that all provisions may be given effect. Vita-Rich Dairy v. Department of Business Regulation, 170 Mont. 341, 553 P.2d 980 (1976).

Your first question involves the interpretation of section 61-6-302(4), MCA, due to the difference in language in the first and last sentences of that subsection. Section 61-6-302(4), MCA, provides:

Every person shall carry in a motor vehicle being operated by him an insurance card approved by the division but issued by the insurance carrier to the motor vehicle owner as proof of compliance with 61-6-301. A motor vehicle operator shall exhibit the insurance card upon demand of the justice of the peace, a peace officer, a highway patrolman, or a field deputy or inspector of the division. However, no person charged with violating this subsection may be convicted if he produces in court or the office of the arresting officer proof of insurance valid at the time of his arrest. (Emphasis added.)

That section must be construed in light of other provisions in the mandatory liability part. Section 61-6-301, MCA, provides: "Every owner of a motor vehicle which is registered and operated in Montana by the owner or with his permission shall continuously provide insurance against loss..." (Emphasis added.) Section 61-6-302(1), MCA, provides in relevant part, "before any applicant required to register his motor vehicle may do so, the applicant must certify to the county treasurer that he possesses an automobile liability insurance policy, a certificate of self-insurance, or a posted indemnity bond...covering the motor vehicle." (Emphasis added.) The penalty provision, section 61-6-304, MCA, states: "It is unlawful for any person to operate a motor vehicle upon highways, streets, or roadways of this state without a valid policy of liability insurance" or other statutorily prescribed forms of coverage. Finally, section 61-6-302(4), MCA, itself requires drivers to carry insurance cards and to exhibit those cards on demand. The clear intent of that provision is to enable law enforcement officers to ascertain at a glance whether there is a valid policy in existence covering the car being driven.

Reading these statutes together and considering their plain meaning, it is clear that every motor vehicle which is registered and operated in Montana must have liability protection. The certification to the county treasurer must be that the motor vehicle being registered is covered by a liability policy. The fact that an individual's liability policy may cover another vehicle under certain circumstances does not meet the

statutory requirement that an owner "shall continuously provide insurance against loss...." § 61-6-301, MCA. (Emphasis added.) The legislative intent revealed by reading the part in its entirety is that every vehicle must have its own liability policy. Statutes must be construed to avoid absurd results, Dover Ranch v. Yellowstone County, 37 St. Rptr. 727, 609 P.2d 711 (1980), and to construe this part to require examination of each individual insurance policy in light of the circumstances surrounding the citation is to misconstrue the legislative intent.

Your second question asks whether a person may be cited and convicted for driving without liability insurance when operating someone else's uninsured vehicle. That question has been answered in part by a previous Attorney General's Opinion, 38 Op. Att'y Gen. No. 49 at 169 (1979). That opinion held, in part: "Both the owner and any non-owner operator of a motor vehicle registered and operated in Montana with the owner's permission are in violation of law if the operator is not insured." Id. at 175. The statutory scheme places an affirmative duty on the owner to maintain mandatory liability protection on any vehicle he owns. See §§ 61-6-301, 61-6-302, MCA. However, under section 61-6-304, MCA, it is also unlawful for "any person to operate" a vehicle upon Montana highways without a valid liability policy in effect. The purpose of the mandatory insurance law as articulated by the Montana Supreme Court is to protect "persons using the public highways from financially irresponsible, negligent motorists." State v. Turk, 39 St. Rptr. 584, 587, 643 P.2d 224, 227 (1982). The rationale covers both owners and operators, for it is the harm that occurs when uninsured motorists are involved in accidents, whether or not they are driving their own car, that the statute is trying to prevent.

THEREFORE, IT IS MY OPINION:

1. The owner of a motor vehicle must purchase a liability policy for each vehicle he owns.
2. An individual may be cited and convicted for failure to have liability insurance if he is discovered operating a third party's uninsured motor vehicle.

Very truly yours,

MIKE GREELY
Attorney General