

VOLUME NO. 44

OPINION NO. 24

MOTOR VEHICLES - Operation of vehicle registered as collector's item;
MONTANA CODE ANNOTATED - Title 15, chapter 6, part 2; Title 61,
chapter 3, parts 3, 5; section 61-3-411;
MONTANA LAWS OF 1955 - Chapter 123, section 1.

HELD: The phrase "general transportation purposes" found in section 61-3-411, MCA, includes driving related to employment, education, maintenance of a household, or similar activities not associated with the vehicle's status as a collector's item.

January 30, 1992

David N. Hull
Helena City Attorney
P.O. Box 534
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Dear Mr. Hull:

You have requested my opinion on the following question:

What is the meaning of the phrase "general transportation purposes," as used in section 61-3-411, MCA, which addresses registration of a motor vehicle owned and operated solely as a collector's item?

Section 61-3-411, MCA, provides:

Registration of a motor vehicle owned and operated solely as a collector's item. (1) An owner of a motor vehicle more than 30 years old, used solely as a collector's item and not for general transportation purposes, may file with the department an application for the registration of the motor vehicle. The application must be sworn to before an officer authorized to administer oaths. The application must state:

- (a) the name and address of the owner;
 - (b) the name and address of the person from whom purchased;
 - (c) the make, the gross weight, the year and number of the model, and the manufacturer's identification number and serial number of the motor vehicle; and
 - (d) that the vehicle is owned and operated solely as a collector's item and not for general transportation purposes.
- (2) The registration fee for a motor vehicle registered under subsection (1) is:
 - (a) for a vehicle weighing 2,850 pounds or less, \$5; and
 - (b) for a vehicle weighing more than 2,850 pounds, \$10.
 - (3) Upon receipt of the application for registration and payment of the registration fee, the department shall file

the application and register the motor vehicle therein described in the manner specified in 61-3-101 and, unless the applicant chooses to exercise the option allowed in 61-3-412, shall deliver to the applicant:

- (a) for a motor vehicle manufactured in 1933 or earlier, two license plates bearing the inscription "Pioneer--Montana" and the registration number; or
 - (b) for a motor vehicle manufactured in 1934 or later and more than 30 years old, two license plates bearing the inscription: "Vintage--Montana" and the registration number.
- (4) The year of issuance may not be shown on the plates.
- (5) Annual renewal of the registration of a motor vehicle registered under this section is not required, and the registration is valid as long as the vehicle is in existence; provided, however, that upon sale of the motor vehicle, the purchaser shall renew the registration and pay the license fees provided in subsection (2).

This statute generally provides for the registration of vehicles more than 30 years old, which will display either "Pioneer--Montana" or "Vintage--Montana" license plates. If the owner swears to the fact that the vehicle is "owned and operated solely as a collector's item and not for general transportation purposes," it is not required to be annually registered, and the registration need only be renewed upon a change of ownership. See § 61-3-411(5), MCA.

Although these vehicles are not explicitly exempt from taxation under Title 15, chapter 6, part 2, MCA, they are effectively exempt from taxation for several reasons. First, subsection (3) of the statute at issue provides that a registration must be issued if the vehicle qualifies and the statutory registration fee is paid, without any language providing for the assessment or payment of property taxes. In addition, these registrations are handled directly by the Department of Justice under the statute, thus bypassing the normal method of vehicle registration and the attendant tax collection handled by county treasurer's offices in Montana. See Tit. 61, ch. 3, pts. 3, 5, MCA.

I understand that your question arises because of the differing opinions as to how these vehicles may be lawfully operated. The plain language of the statute allows operation as a "collector's item" and prohibits operation for "general transportation purposes." These terms are not defined in any prior Montana Attorney General's Opinions, statutes or reported cases and the legislative history of the statute is not helpful in regard to their specific meaning. I do

note that the terms were included in the original legislation adopted in 1955. See 1955 Mont. Laws, ch. 123, § 1.

It would appear that the legislative determination to restrict operation of such a vehicle to use "as a collector's item" turns on the fact that the owner may obtain a long-term registration upon the one-time payment of either \$5 or \$10, as opposed to the yearly registration and tax payment required of the owner of any other privately-owned vehicle. This argues for a fairly inclusive definition of the phrase "general transportation purposes."

I find that driving related to employment, education, maintenance of a household, or similar activities would fall within the prohibited "general transportation purposes." Such vehicles may obviously be driven, but any driving must be strictly limited to the vehicle's status as a "collector's item." Thus, for example, driving such a vehicle to and from car club activities, exhibits, parades, or the display of a private collection would not be considered "general transportation purposes."

THEREFORE, IT IS MY OPINION:

The phrase "general transportation purposes" found in section 61-3-411, MCA, includes driving related to employment, education, maintenance of a household, or similar activities not associated with the vehicle's status as a collector's item.

Sincerely,

MARC RACICOT
Attorney General