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MACo News
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ANNUAL CONFERENCE RECOGNIZING DIFFERENCES AND WORKING TOGETHER

Working together with a variety of interest groups to resolve controversy and support common topics was a major theme in the 94th MACo Annual Conference in Lewistown, September 21-24. Speakers covered a wide variety of subjects and emphasized the importance of keeping contacts and information flowing.

Leroy Luft, Interim Vice Provost and Director of MSU Extension Service, highlighted the efforts of the counties to support Extension Service during the 2003 Legislative Session. "We cannot do this completely through extension agents, so we ask counties to bring support. We thank you for this effort."

Jane Jelinski and Judy Mathre, MSU Local Government Center, advised county officials to begin informing constituency on the upcoming local government review process. "If you would like to have certain issues considered, you have the right to recruit, coach and encourage people on what the needs and issues are," said Jelinski.

A panel of four experts from the Department of Public Health and Human Services spoke on West Nile Virus (Maggie Bullock, Administrator; Dr. Mike Spence, Chief Medical Officer; Amy MacKenzie and Jim Murphy, Communicable Disease Sur-

veillance). "New technologies are being installed in counties to get out health alert messages and additional public health training," said Bullock. "With the wide geography here, we want to know from you officials what the most frequent environmental health factors are in your county," said Dr. Spence.

Larry Swanson, UM Center for the Rocky Mountain West, vividly described the diversity of the Montana economy. Growth in employment, personal income and population was three times greater than the previous decade. "But we are still trying to develop natural resource industries, even though they are static, rather than human resource industries, which are growing. This growth requires population mass, so that's why the growth is centered in urban areas. The economy is not broken; but our government revenue system is obsolete," he said. "How do we tax human resource economy?"

The final action of the membership was to approve two letters of support from MACo to Montana's Congressional delegation—one for permanent funding for PILT / Refuge Revenue Sharing and one for development of energy resources on the

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**2003-2004
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 Jean Curtiss, Missoula County

MARK YOUR CALENDAR

October 1-3	Association of Planners; Big Sky
October 1-3	Lewis & Clark Bicentennial Conf.; Lewistown
October 2	Revenue & Transportation Interim Committee
October 8	Balance of State Council; Bozeman
October 8-9	Environmental Quality Council; Helena
October 13	Columbus Day Holiday
October 14	Tax Reform Committee; MACo Conf. Room
October 16	Public Lands meeting; Billings Hotel; 9:00 am
October 23	Drought Advisory Committee; DEQ Room 111
October 23	Law and Justice Interim Committee; Capitol
October 23-24	Economic Affairs Interim Committee; Helena
October 24	District Court Council; Helena; 8:00 am
October 27-30	Clerk of Court Certification School; Butte
October 30	Education & Local Government Interim Comm.

UPCOMING EVENTS

November 11	Veterans Day Holiday
November 14	MACo Economic Development Committee
November 18-20	JPA-JPIA Trustee Retreat; Helena
November 27	Thanksgiving Day Holiday
December 3-5	MACo Board Retreat; Butte
December 10	Zoning and Land Use Law Class; Helena
December 11-12	Revenue & Transportation Interim Committee
December 25	Christmas Day Holiday



ELECTION REFORMS from HELP AMERICA VOTE ACT (HAVA)

The 2002 Help America Vote Act (HAVA) will overhaul elections in the United States over the next three years. State and local governments will replace antiquated voting machines and improve election administration. HAVA calls for:

- Better access to polling places for disabled voters;
- Specialized voting equipment for disabled voters;
- Replacement of punch-card voting machines;
- Provisional voting, if name is mistakenly omitted from poll books;
- Easier absentee voting;
- Identification presented by voters at the polls;
- Definitions of what constitutes a vote and standardizing the way votes are counted.

Amy Sullivan, in the Secretary of State's office, will oversee comprehensive election reforms in Montana. Sullivan is responsible for:

- Implementing Montana's election reform plan

- Creating a computerized, statewide voter registration database that local election officials can update on an ongoing basis
- Developing administrative rules to implement election laws
- Conducting workshops to train local election officials
- Educating the public about changes in the way they will vote.

Montana received a \$100,000 grant to increase access to polling places across the state. Last Fall, county election officials determined whether any of Montana's polling places are inaccessible to the disabled community. 502 of the 694 polling places in Montana are accessible. The grant, along with matching money from counties, will be used to help make the other 192 polling places easier to enter.

A portion of the money will be used to establish a transportation program to assist people with disabilities to and from polling places on Election Day.



The 2003 Fire Season: A Reflection

By Bob Harrington, Montana State Forester, DNRC Forestry Division

This summer's unprecedented challenge to the firefighting community was truly a success story worth recognition --- over 14,000 people were mobilized to protect the homes, property and natural resources of Montana.

The safety record of this fire season was unsurpassed. Hundreds of thousands of hours were worked by 20-person hand crews, engine crews, smoke jumpers, helicopter and retardant plane pilots, heavy equipment operators, incident management teams, and fire managers --- all with no fatalities and very few serious injuries. In spite of substantial threat to hundreds of homes and businesses, very few were lost.

With so many landowners, agencies, fire jurisdictions and layers of communication, such teamwork and cooperation does not happen by accident. It is the culmination of many hours of interagency training, meetings, and coordination. These relationships are *crucial* to success in managing wildfire incidents. Major players were:

- Career & Volunteer Fire Departments - Their dedication to protecting property from fires is boundless. They respond quickly, work tirelessly and serve as conduits for information between firefighters, incident management teams and local residents.
- County Commissioners, Sheriff's Departments and Road Crews- County commissioners provided essential links between incident management teams and local government. Sheriff's Departments evacuated homeowners in the path of fires. County road crews and equipment assisted with fireline construction and repairing firelines and county roads.
- Federal & Tribal Agencies - The US Forest Service, National Park Service, Bureau of Land Management, Montana Indian Tribes, and the US Fish and Wildlife Service provided rapid initial attack, operated interagency dispatch and coordination centers, and managed fire fighting efforts. The Federal Emergency Manage-

ment Agency (FEMA) has maintained a constant presence and their financial assistance is truly appreciated.

- Incident Management Teams - Many IMT members were on fire assignments for well over 50 days this summer.
- Other State Agencies - Disaster and Emergency Services (DES) and Montana Army National Guard provided Blackhawk helicopters, personnel for road closures, firelines and dispatch. The Montana Highway Patrol and Department of Transportation assisted with evacuations, highway closures and traffic escorts.
- Private Contractors - Private contractors provided essential equipment and aircraft (helicopters, retardant planes, wildland fire engines, water tenders, heavy equipment) AND they provided camp facilities, meals and showers for firefighters.
- Montana Department of Natural Resources and Conservation (DNRC) - In western Montana, DNRC initial attack resources responded to over 450 fires on the 5 million acres. In eastern Montana, DNRC worked with county and federal partners in numerous lightning storms that ignited hundreds more wildfires.

DNRC Forestry Division worked closely with FEMA so that every fire location which met criteria for assistance was declared as soon as possible, so that agencies could recover firefighting costs if possible. ***Estimates indicate that this will save Montana taxpayers over \$35 million and reimburse counties for several hundred thousand dollars of fire-related expenses.*** We are also accounting for all state fire costs so the Governor's office and legislature can understand the fiscal implications of the 2003 fire season as soon as possible.

I am proud of what we accomplished this summer, thankful for the cooperation we received on all fronts, and grateful for our safety record.

RESPONSES TO SURVEY COUNTY ATTORNEY SALARIES

IS YOUR COUNTY PAYING ONLY YOUR 50% SHARE OR ARE YOU ALSO PICKING UP THE DIFFERENCE BETWEEN WHAT THE STATE IS WILLING TO PAY AND THE FULL 50%?

Thirty counties responded to the survey.

Seventeen counties DO pay the difference between what the State is willing to pay and the negotiated annual increases.

Twelve counties DO NOT pay the difference, but pay the same amount as the State is willing to pay.

One county viewed this as a non-issue because their county attorney position is part-time only.

“To be simple is the best thing in the world; to be modest is the next best thing. I am not sure about being quiet.”

G. K. Chesterton

COMPUTER FREEZING UP?

You are in the middle of a project and your computer freezes and the keyboard and mouse are non-functioning. You will need to perform the infamous “ctrl.alt.delete” to bring it back online. (Hold down “Ctrl” and “Alt”, then hit “Delete”; repeat all three keys) Unfortunately, this may bring your computer back to life, but the document will revert back to the last time you saved. If you never saved the document, it is lost. Therefore, remember to save often.

If you tend to forget to do this, you may want to activate the “Auto Save” feature. To activate this feature, click on “Tools”, “Options”, “Save.” Under “Save Options”, check “Always create backup copy.” This feature can save you hours of work but you must perform an initial hard save to enable it. Then, the “Auto Save” feature will allow you to view the most recent version of your document including the last “hard saved” copy. Then you can select which version you wish to save.

TOOL HANDLE DESIGN

Presented by Emelia McEwen
MACo Assistant Risk Manager

Gripping Motions

The hand performs two basic gripping motions. Precision grip is the tripod pinch formed between the index, long finger and the thumb, such as holding a pencil. Power grip places the handle across the palm with all four fingers and the thumb curled around it.

Jobs requiring repetitive power gripping should be performed with a straight or neutral wrist to protect the wrist tendons and the carpal tunnel area. Prolonged bending of the wrist can compress nerves and tendons, leading to repetitive stress injuries.

Handle Shapes

Straight handles (hammers, screwdrivers, nut-runners), piston grip handles (drills, electric screwdrivers), barbell style grips (sanders, grinders), conical or tapered handles (hanging tools) and pistol handles (staple guns) each stress the worker’s hands in different ways.

Tools with conical handles allow the hand to be placed at different points depending on the task and the operator’s hand size. Pistol handles are angled at around 70 degrees to allow both power and precision grips to be used.

Handles need to be long enough to avoid pressure points in the center of the palm, as this is an unprotected area of the hand. The flexor tendons and their sheaths are thinly covered by tissue in the center of the palm, and they are very susceptible to vibration and excessive pressure.

Grip Differences—One Size Doesn’t Fit All

<u>Handle Measure</u>	<u>Men</u>	<u>Women</u>
Length	100-120 mm	85-100 mm
Circumference	100-130 mm	100-120 mm
Diameter	38 mm	34 mm

A tool meant for use with gloves should have an additional 13 mm in length.

Tools with removable or adjustable grips are ideal in work environments where male and female operators may share the same workstations on different shifts. The tool handle should be easy to change and should be secure enough to satisfy safety concerns.

From an article in “Prevention” by Lori Stotko, occupational therapist

COUNTY and AGENCY COOPERATION TO FIGHT WEEDS

Fifteen years ago, northeastern Montana experienced some of the worst infestations of leafy spurge. However, thanks to proactive thinking by resource specialists in Valley, Sheridan, Daniels and Roosevelt Counties, the war on leafy spurge is being won.

An important factor in the success against the spurge is one of the largest natural insectaries for Leafy Spurge Flea Beetles (*Aphthona lacertosa* and *Aphthona Nigriscutis*) in this part of the U.S. In fact, the insectary is so large that Montana Department of Natural Resources (DNRC), in conjunction with its partners, collected over five million flea beetles last year.

DNRC took a strong stance on leafy spurge in 1996, when its northeastern office acquired over 400,000 weed killing beetles from the Agricultural Research Station in Valley City, North Dakota (thanks to Dr. Robert Carlson of North Dakota State University - Fargo). From the original release in northeastern Montana, one site, south of Culbertson, exploded and today serves the entire state.

The effort also started an alliance of natural resource agencies, such as DNRC, the Bureau of Land Management (BLM) and Valley County Weed Program. Every June the three agencies begin the flea beetle collection process. DNRC Glasgow Unit Manager Hoyt Richards explains, "We want to get them just before they lay their eggs. That way, after they've been relocated, they can begin working on new areas and lay their eggs there." The collection takes place during five days' of work spread over two weeks. Upon collection, the beetles are bundled into paper containers and put on blue ice in coolers. Each container houses about 3,500 beetles, with about 30-35 containers in each cooler. The coolers or containers are sent to their destinations within 24 hours.

The collection and use of the critters has gained some notoriety over the last several years. The Glasgow DNRC Office is not only delivering beetles in northeastern Montana, but also state wide. Last year, the DNRC delivered beetles to twelve more counties. "For example, we sent about 100,000 beetles down to Powder River County last year and about 60,000 beetles to the Elkhorn Mountains in Broadwater and Jefferson Counties," he said. "We're anxious to see the results in the Elkhorn Mountains, since we don't know the effect that elevation and snow will have on these beetles." In addition to spreading out statewide, the program has taken off internationally. Last year, about 150,000 beetles went north to both Saskatchewan and Alberta.

The agencies all agree that the key to the use of beetles is time. "You can't use these beetles and expect them to work quickly," Richards explains. "We generally tell people to have six years' worth of patience to see the dramatic change the beetles will have on the spurge." They stress that beetles are only one way to manage the spurge, because the most effective means has been through a three-tiered approach with: 1) Biological, 2) Animal (goats/sheep) and 3) Chemical Controls.

What really makes the war on weeds work is the coordinated effort of many agencies. For example, DNRC takes the lead to collect the beetles, the county is responsible for the chemical spraying and BLM is responsible for distribution of beetles and also allowing goats/sheep to graze on its land. Richards said. "It's not about mine and yours or county-versus-state-versus-federal. It's about folks working and helping each other to make the landscape and state a better place." In addition, agencies such as Conservation Districts, Army Corps of Engineers, Bureau of Reclamation, Montana Fish Wildlife and Parks, US Fish and Wildlife Service and the Bureau of Indian Affairs are all doing their parts in the fight against leafy spurge. "We'll never completely eradicate spurge from this state, but we will get it down to the point were a single landowner will be able to control the spurge on his/her place and it won't be cost prohibitive," Richards explained.

For example, Carter Harmon, a rancher in northeastern Montana, previously used sheep and chemicals in weed control. He has received thousands of beetles from the insectary and has dropped his sheep herd size to just over 100 sheep and his chemical bill from over \$5,000 a year to \$500. "It's an excellent program for me." Harmon said. "Some of my land is in areas that I can't get to or is too close to the Missouri River to use chemicals. That's why these beetles work slick," he added.

For more information, contact the DNRC's Glasgow Unit Manager at 406-228-2430.

COUNTY NEWS

NEW OFFICIALS

HILL COUNTY appointed a new County Attorney, Cyndee Peterson. She replaces David Rice, who resigned.

SHERIDAN COUNTY appointed Justice of the Peace Les Kolste to replace Tom Robertson.

BEAVERHEAD COUNTY appointed Deputy County Attorney Wally Congdon as interim County Attorney. He replaces Michael Riley who recently resigned.

TREASURE COUNTY appointed DeWayne Bates to the Sheriff-Coroner position, following Steven Wilkins' resignation.

GALLATIN COUNTY selected Jennifer Bordy to run the new public defender office.

FACILITIES

RICHLAND COUNTY dedicated the 1,312' Fairview Lift Bridge (1912) and the 1,458' Cartwright Tunnel (1912) as part of a walking trail across the Yellowstone River.

JEFFERSON COUNTY will buy ten acres of the historic Elkhorn cemetery from the Forest Service in order to continue to allow burials. A benefactor proposes to bear the appraised cost.

DAWSON COUNTY traded property with Dawson Community College. The County obtained ownership of the Sagebrush Stadium and the College obtained ownership of a portion of the County Fairgrounds for future use as a rodeo arena and agricultural classrooms.

CASCADE and YELLOWSTONE COUNTIES are considering selling or leasing the naming rights to their entertainment and recreation facilities. Requests-for-Proposals may lead to income generation for the facilities.

CUSTER COUNTY has been approached by the US Secretary of Veterans Affairs to transfer ownership of the Veterans Medical Center to the County. In controversy are the heating system and roof replacement, both of which the VA will address.

NATURAL RESOURCES

JEFFERSON COUNTY implemented a "Right to Farm" policy last October. **BROADWATER**

COUNTY followed, basing its resolution on Jefferson County text.

FERGUS COUNTY passed an ordinance preserving the right to handle and dispose of livestock. Intent of these actions is to insure that traditional agriculture processes cannot be disrupted by residential or subdivision development.

BROADWATER COUNTY is also considering a similar resolution aimed at protecting mining and timber interests.

LINCOLN COUNTY provides funding to loggers to haul in logging slash; the County gives it away on first-come-first-served basis for firewood.

LIBERTY COUNTY, after 20+ years of planning, broke ground for a hydroelectric generator at Tiber Dam.

BEAVERHEAD COUNTY has a dispute over an un-incorporated community water system, which was built on county property nearly 100 years ago by the railroad. Users are tapping into the gravity-fed system, altering the flow such that some users are not receiving water.

DAWSON COUNTY was threatened with a \$10,000 fine by the Army Corps of Engineers for non-compliance regarding materials used as riprap. A community clean-up night was held to clean out most of the unapproved materials.

BUTTE-SILVER BOW COUNTY

Commissioners met to clean up brush and trash accumulated in a creek along a county walking trail. Commissioners and their families spent hours gathering six pickup loads of debris.

HILL COUNTY is conducting a survey to determine support for a public water system in an area where private wells exist in groundwater that is contaminated.

LAKE COUNTY has been asked to allow a boat launch and boat trailer parking on county-owned land to increase public access to Flathead Lake. The property is currently leased to a private group.

BIG HORN COUNTY temporary 300' setback requirements on the Bighorn River has been declared "null and void" by the District Judge because of inadequate notice and unclear definition of "perennial".

BROADWATER COUNTY questioned whether a weed fee for subdivision development (proposed by the Weed Board and the Planning Board) should be for each lot or one fee for the entire development.

JAIL FUNDING

LINCOLN COUNTY plans to borrow from the County road fund, to be paid back at 3% over five years from PILT funds, in order to remodel the jail.

CASCADE COUNTY needs to take funds from medical and housing assistance programs in the Poor Fund to support the regional jail. They also are considering asking the voters for future funds to cover costs of the jail.

Have something interesting you want put here? Know a good story about another county? Need to put in a correction or update? Give Marie a call at 457-7207 or email macopb@maco.cog.mt.us

PLANNING POSITION

Park County is soliciting proposals to revise the County Growth Policy Plan. For a full description of the six-month project, contact:

Jackie Robbins

Park County Planning Department
414 E. Callender
Livingston, MT 59047
planner@parkcounty.org
406-222-4144

Economic Disaster Funds for Businesses in Fire Counties

Seven counties in Montana were approved for Economic Injury Disaster assistance by the Small Business Administration (SBA): Flathead, Glacier, Lake, Lewis & Clark, Lincoln, Sanders and Teton. Small businesses in contiguous counties are also eligible to apply for Economic Injury Disaster Loans (Toole, Pondera, Chouteau, Cascade, Meagher, Broadwater, Jefferson, Mineral, Powell, and Missoula). These low-interest loans cannot address physical losses due to the fires, such as property destroyed, but are available to small businesses that suffer financial losses.

"It is easy to underestimate the financial impact of a wildfire," said U.S. Senator Conrad Burns. "It goes beyond the actual cost of fighting the fire. We have businesses that have suffered great losses due to evacuations and slowing tourism in the wake of the flames. Many of these businesses rely on those SBA loans to make it through the winter season."

G I S and Public Information

a one-day seminar on electronic information and the right to know in Montana

wednesday · december 3
9 a.m. – 4 p.m.
fee \$90
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a g e n d a

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REGISTRATION

maximum enrollment – 40

By phone: 444-3985

By State Outlook:

PDC Registrations

By e-mail:

pdc01@state.mt.us

By mail:

P.O. Box 200127
Helena, MT 59620

Make Your Pet's Day: Neuter and Spay

The Montana Spay and Neuter Task Force holds spay/neuter clinics around Montana. The clinic is designed to show local communities how to run a low cost, large volume program while maintaining a safe, clean environment for the veterinarians and volunteers to work. The focus is on how spaying and neutering is an important part of having pets and educational material is presented.

The Missoula County Commission and the Missoula City Council held its clinic in June. The Task Force members and 150 volunteers, including six local veterinarians, worked for five days. 633 area dogs and cats were spayed and neutered. Over a third of the animals were strays taken in by the caregivers who brought them. One elderly gentleman brought in twenty cats that have been dropped off at his place over time. He drove back and forth several days to get them all there.

The Carbon County clinic, "Operation Nip & Tuck," was held in September.

The Task Force has held similar volunteer clinics in Glacier County and Browning, Yellowstone County and Billings, Gallatin County and Bozeman and other communities across Montana.

The Montana Spay/Neuter Task Force can be reached at:

P.O. Box 701
Victor, MT 59875
406-777-2644



**NATIONAL FIRE PLAN
MONEY AVAILABLE
(Wildland Urban
Interface Grants)**

The Western States Wildland Urban Interface Grant Program provides grant funding to communities, homeowner groups and other organizations for projects within four key focus areas:

Improve Prevention:

Reduce the risks to homes and private property through expanded outreach and education

Reduce Hazardous Fuels:

Mitigate hazards through fuel reduction projects and vegetation treatments

Restore Ecosystems:

Restore fire-adapted ecosystem health and address drought damage

Promote Community Assistance:

Create conditions in and around individual structures that will limit the transmission of fire from wildlands

A requirement of the grant program is a 50/50 match for all federal funds, and can include in-kind services as well as cash. Local government, agencies and communities interested in applying should contact their local DNRC office or call 406-542-4235. Application information may also be found online at www.dnrc.state.mt.us/forestry/index.htm <<http://www.dnrc.state.mt.us/forestry/index.htm>>. Optional grant assistance workshops are being held to assist potential applications.

Deadline for applications is October 10, 2003. Applicants should submit 10 copies of their application, or a single copy if submitted electronically to

**FUNDING FOR
HEALTH PROJECTS**

The Faith-Health Cooperative program helps faith-based and community groups build capacity and improve social services to those in need. This reflects President Bush's recognition that faith-based and community organizations are uniquely suited to partner with the government in serving poor and low-income people.

Deadline for Applications is Friday, October 17, 2003. Approximately 25 sub-awards of \$2,000-\$12,000 each will be granted; projected start date is December 1, 2003.

Application forms with eligibility and selection criteria are available at <http://faithhealthcoop.montana.edu/demoproj/subcall.html> or by calling Elizabeth (406-994-5553) in the Montana Office of Rural Health at MSU-Bozeman.

Priority will be given to programs building capacity to serve needy Montanans:

- At-risk populations: disabled, elderly, children/youth, American Indian, uninsured, impoverished, homeless
- Nursing / health ministries
- Prisoners / children of prisoners
- Health and social service support needs: mental and oral health, chronic conditions, rehabilitation, end of life care
- Welfare-to-work transition
- Substance abuse prevention, cessation and rehabilitation
- Violence prevention, cessation and rehabilitation

Funds cannot be used for direct services or to replace or supplant existing funding available for similar activities. Funds cannot be used to support religious activities.

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www.thestorageplace.org

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"Every damn thing is your own fault, if you're any good."

Ernest Hemingway

Attorney General—LETTER OF ADVICE

An Attorney General Opinion was requested by Richard Malagisi, Sweet Grass County Attorney.

Dear Mr. Malagisi:

You have requested an opinion from the Attorney General regarding an interpretation of MCA 75-10-501(4) which defines “junk vehicle.” I have rephrased the your question as follows:

May a vehicle that has been lawfully and validly licensed be classified as a junk vehicle pursuant to the terms of MCA 75-10-501(4) and be subject to the shielding provisions of MCA 75-10-505?

The plain language of the statute at issue, as well as the Montana Supreme Court’s interpretation of the statute, provide the response to your question, and it has therefore been determined that a letter of advice rather than a formal opinion is appropriate.

Initially, you ask whether a person in possession of a junk vehicle may avoid the shielding requirements of MCA 75-10-505 “by simply licensing the vehicle(s)?” By assuming that the vehicle in question is a junk vehicle, you beg the question, since the definition of “junk vehicle” as set forth by the legislature excludes a vehicle that has been validly licensed.

MCA 75-10-501(4) defines junk vehicle as “a discarded, ruined, wrecked, or dismantled motor vehicle, including component parts, that is not lawfully and validly licensed and remains inoperative or incapable of being driven.” The definition includes three requisite elements before a vehicle can be classified as junk vehicle: 1) the vehicle must be discarded, ruined, wrecked, or dismantled; 2) the vehicle must not be lawfully and validly licensed; and 3) the vehicle must not be operable or capable of being driven. The statute is written to give equal weight to all three elements and all must be in existence before a vehicle may be classified as a “junk vehicle.”

This interpretation is supported by the Montana Supreme Court’s decision in Springer v. Becker. In Springer, the Court upheld the District Court’s finding that the plaintiff’s vehicle was not a junk vehicle as defined by MCA 75-10-501(4). The Court found that the plaintiff’s vehicle was capable of being operated and driven. Because all three elements of MCA 75-10-501(4) were not satisfied, the Court held that the District Court had properly determined that plaintiff’s vehicle was not a junk vehicle as defined by the statute. A lawfully and validly licensed vehicle is not a “junk vehicle” pursuant to MCA 75-10-501, and the shielding requirements of MCA 75-10-505, therefore, do not apply.

You attempt to make a distinction between a “lawful” and “valid” license. You state that it is your opinion that while a person may obtain a lawful license, “if the vehicle is discarded, ruined, wrecked, or dismantled, and remains inoperable or not capable of being driven,...if a license is attained,...it is not a valid license.” You contend that your argument is supported by MCA 61-3-301, which requires that motor vehicles operated or driven on the public highways of Montana be properly registered.

Registration is a legal requirement for driving or operating a vehicle in Montana. The statutes governing vehicle registration do not require as a prerequisite that a vehicle be operable or capable of being driven. If they did, a temporarily disabled vehicle could not be registered, and vehicle registration once issued would become invalid every time a vehicle broke down, however temporarily. Moreover, your interpretation would require the Motor Vehicle Division to make a determination when it registers a vehicle. It would be beyond its capability to do so, given 1) the hundreds of thousands of vehicles it registers annually, 2) the very limited number of clerical personnel in the county offices that perform the registration functions, 3) the sometimes difficult factual determinations that these employees would be required to make as to whether a mechanical problem in a particular vehicle rendered it “disabled” (a determination which these clerical employees would have no training to make), and 4) the fact that the law does not even require that the vehicle be present (and thus available for inspection by the employees) at the county courthouse when the registration is issued or renewed.

I would note finally that the abandoned vehicle statutes found in MCA 61-12-4 may apply to ameliorate some of the supposed ineffectiveness of the junk vehicle statutes that concerns you. MCA 61-12-401 allows local law enforcement to impound a vehicle that is abandoned on a public street or highway, making no distinction between vehicles that are registered and those that are not. While this provision would not address the problem of vehicles abandoned off-road, it would allow for the removal of at least some of the troublesome vehicles with which your question is concerned. Any further refinements in the junk vehicle system would seem to require action by the legislature.

This letter of advice may not be cited as an official opinion of the Attorney General.

Sincerely,

BRENDA NORDLUND, Assistant Attorney General

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