

48 Op. Att'y Gen. No. 22

PEACE OFFICERS - Peace officer employment, education and certification standards;

STATUTORY CONSTRUCTION - Construction of statute's provisions in manner which gives meaning and effect to each;

STATUTORY CONSTRUCTION - Construing plain meaning of words of statute;

MONTANA CODE ANNOTATED - Sections 1-2-101, 7-32-303, -303(5)(a), (5)(b), (5)(c), -303(6).

HELD:

Mont. Code Ann. § 7-32-303(6) authorizes only one extension, not to exceed 180 days, to the requirement that every peace officer must attend and successfully complete, within one year of his or her initial appointment, an appropriate peace officer basic training course certified by the Board of Crime Control.

December 18, 2000

Mr. Jim Oppedahl
Executive Director
Montana Board of Crime Control
P.O. Box 201408
Helena, MT 59620-1408

Dear Mr. Oppedahl:

You have requested my opinion on the following question, which I have rephrased as follows:

May the Board of Crime Control grant more than one 180-day extension under Mont. Code Ann. § 7-32-303(6) for a peace officer to complete basic training?

In my opinion, the Board may not.

Mont. Code Ann. § 7-32-303 governs peace officer employment, education and certification standards. Relevant to your question is subsection (5)(a), which provides:

(5)(a) Except as provided in subsections (5)(b) and (5)(c), it is the duty of an appointing authority to cause each peace officer appointed under its authority to attend and successfully complete, within 1 year of the initial appointment, an appropriate peace officer basic course certified by the board of crime control. Any peace officer appointed after September 30, 1983, who fails to meet the minimum requirements as set forth in subsection (2) or who fails to complete the basic course as required by this subsection (a) forfeits the position, authority, and arrest powers accorded a peace officer in this state.

Thus, the general requirement is that a peace officer must attend and successfully complete an appropriate peace officer basic training course within one year of his or her initial appointment.

Subsections (5)(b) and (5)(c) provide exceptions to that general rule; however, they only apply to peace officers who, at some time prior in their careers as peace officers, have received a basic certificate from the Board of Crime Control (Board) or the equivalent certification from another state. Subsection (5)(c) reiterates the one-year rule in requiring former officers to pass a basic equivalency test and to complete a legal training course conducted by the Montana Law Enforcement Academy.

You asked for my construction of subsection (6), which grants the Board authority to extend the one-year time requirement of subsections (5)(a) and (5)(c). Specifically, you asked whether more than one 180-day extension to the one-year time requirement may be granted.

Subsection (6) states:

(6) The board of crime control may extend the 1-year time requirements of subsections (5)(a) and (5)(c) upon the written application of the peace officer and the appointing authority of the officer. The application must explain the circumstances that make the extension necessary. Factors that the board may consider in granting or denying the extension include but are not limited to illness of the peace officer or a member of the peace officer's immediate family, absence of reasonable access to the basic course or the legal training course, and an unreasonable shortage of personnel within the department. The board may not grant an extension to exceed 180 days.

In light of the rules of statutory construction, I conclude that the Board's interpretation that subsection (6) authorizes the Board to grant only one 180-day extension is correct. Statutes must be construed or interpreted in accordance with the intent of the legislature. State v. Christensen, 265 Mont. 374, 376, 877 P.2d 468, 469 (1994). In construing a statute, I must look first to the plain meaning of the words of the statute; if the language is clear and unambiguous, no further interpretation is necessary. Id.

The statutory language of Mont. Code Ann. § 7-32-303(6) is clear and unambiguous. In relevant part it states, "The board may not grant an extension to exceed 180 days." My opinion is that this language expresses a clear intent by the legislature to give the Board authority to grant one extension, but placed upon the Board the constraint that an extension could not exceed 180 days.

Mont. Code Ann. § 1-2-101 expresses a preference that, where possible, a statute be interpreted in a manner which gives meaning to each particular provision of the statute. Additionally, the Montana Supreme Court has stated that any statutory interpretation that renders any sections of the statute superfluous and does not give effect to all of the words used must be avoided. State v. Berger, 259 Mont. 364, 367, 856 P.2d 552, 554 (1993).

The legislative intent in § 7-32-303(6) is expressed unambiguously through the straight-forward process attendant to extension requests. The statute requires the Board to act upon "the written application of the peace officer" which, in turn, "must explain the circumstances that make the extension necessary." It then identifies certain circumstances that may be considered by the Board "in granting or denying the extension." The statute concludes by prohibiting the Board from granting an extension exceeding 180 days. Subsection (6) thus contemplates a one-time process initiated by the submission of an extension request and a determination that, if favorable, cannot extend the normal deadline more than 180 days. The provision, given literal effect, is not susceptible to a construction under which a peace officer may tender multiple applications whose intended or practical effect is to secure extensions exceeding the 180-day limit. Any other conclusion, moreover, would produce inconsistency with § 7-32-303(5)(a), since interpreting subsection (6) to allow multiple extensions over 180 days to an officer who has not received his or her basic certification would undermine subsection (5)(a)'s requirement that peace officers complete the educational requirements imposed upon them within one year of their appointment except where an extension is granted under the following subsection. Put otherwise, it makes little sense to impose a one-year deadline, with the possibility of an extension for a specified maximum length, if through the simple use of multiple extensions that length may be exceeded.

In sum, it is clear that § 7-32-303(6) recognizes that there are certain legitimate reasons an officer may need an extension beyond the one-year requirement set forth in § 7-32-303(5)(a). Nonetheless, the overriding intent of the statute is to require that all peace officers receive the proper education within one year of their appointment, except where compelling circumstances exist to justify an extension not to exceed 180 days. The public and officer safety reasons underlying this requirement are obvious.

THEREFORE, IT IS MY OPINION:

Mont. Code Ann. § 7-32-303(6) authorizes only one extension, not to exceed 180 days, to the requirement that every peace officer must attend and successfully complete, within one year of his or her initial appointment, an appropriate peace officer basic training course certified by the Board of Crime Control.

Sincerely,

JOSEPH P. MAZUREK
Attorney General

jpm/ans/dm