

MOTOR VEHICLES:
SUSPENSION OF OPERATOR'S
AND CHAUFFEUR'S LICENSES:

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Sec. 302.170(3) RSMo 1949, was repealed by Amended S.C.S. for H.C.S. for House Bills 22, 49, 56 and 114, 66th General Assembly, effective Jan. 1, 1952. Sec. 302.225(4) of act grants named courts power to order suspension and revocation of operator's and chauffeur's license for causes in act. Upon conviction of offense for which license can be, and is ordered suspended, trial court must report same to Director of Revenue, who has mandatory duty to suspend license for time specified in statute. Trial court cannot order license surrendered for suspension period.

April 1, 1952

4-9-52

Honorable Raymond H. Vogel
Prosecuting Attorney of
Cape Girardeau County
Cape Girardeau, Missouri

Dear Sir:

Your recent request for a legal opinion of this department has been received and reads as follows:

"Please give me your opinion with regard to the matter set out below:

"Section 302.170(3) of the Missouri Revised Statutes (1949) provides that the Magistrate may recommend the suspension or revocation of a drivers license upon conviction for a violation of any of the statutes regulating the operation of motor vehicles on highways. Apparently, this provision is repealed by the new drivers license law which became effective January 1, 1952. Section 302.225(4) of the new drivers license law provides that the Magistrate Courts shall have the power to suspend and the power to revoke 'for the causes herein provided.'

"Section 302.270 and Section 302.280 of the new law apparently provide the only

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causes for which drivers licenses may be revoked or suspended. It therefore appears that the Director of Revenue may no longer suspend the drivers license upon conviction of a violation of the statutory road regulations, coupled with a recommendation of suspension by the Magistrate. It does appear that the Magistrate may himself suspend the drivers license of a person convicted in his Court when death, personal injury, or serious property damage results from wanton and reckless operation of a motor vehicle.

"Please advise me if the above-stated conclusions are correct.

"Section 302.225(5) provides that upon the suspension by a court, 'the court shall note the fact (of the suspension) on the back of the license . . .'. Apparently there is no provision made for the surrender of the suspended drivers license as there was in the old law. Please advise if this conclusion is correct."

You make inquiry as to whether some of your conclusions regarding specific statutory references mentioned above are correct.

The first reference is to Section 302.170(3) RSMo 1949, and you state, "Apparently this provision is repealed by the new drivers license law which became effective January 1, 1952." Your conclusion that this section has been repealed is correct, as such section was repealed by Amended Senate Committee Substitute for House Committee Substitute for House Bills No. 22, 49, 56 and 114, of the 66th General Assembly, which became effective January 1, 1952.

If your second conclusion is that a magistrate court has the power to order the suspension of the operator's or chauffeur's licenses for the causes provided in said act, we agree that such conclusion is correct. Section 302.225(4) of said act grants this power to said courts, and reads as follows:

"The magistrate courts of each county and the circuit courts of the various counties of this state shall have power to suspend for the causes herein provided for a period not to exceed one year the license of any operator or

chauffeur to operate a motor vehicle within the entire state, and any circuit court or magistrate court may revoke for the causes herein provided the license of any such operator or chauffeur to operate a motor vehicle within this state, whether the case is on appeal or has originated in such court."

Section 302.280 provides the causes for which an operator's or chauffeur's license shall be suspended. When a person is convicted in the magistrate court of an offense, where in connection with said conviction one of the causes is present as set out in Section 302.280, for which an operator's or chauffeur's license may be suspended, the court may order the license of such person suspended. Said section reads as follows:

"1. The director shall suspend the license of an operator or chauffeur for a period of not to exceed one year, upon a showing by the records of the director or any public records that the operator or chauffeur

(1) Has caused the death or personal injury of another or serious property damage by his wanton and reckless operation of a motor vehicle;

(2) Is an habitual reckless or negligent driver of a motor vehicle;

(3) Is an habitual violator of traffic laws;

(4) Had been convicted by a magistrate or circuit court of unlawful or fraudulent use of such license;

"2. The director shall suspend the license of any operator or chauffeur upon a showing by the records of the director or any public records that such operator or chauffeur has an unsatisfied judgment against him, as defined in chapter 303, RSMo 1949, until such judgment has been satisfied or the financial responsibility of such person, as defined in section 303.120, RSMo 1949, has been established."

In this connection we wish to emphasize that Section 302.280, supra, providing the causes for which operator's and chauffeur's licenses shall be suspended must not be read and interpreted alone, but only in connection with the provisions of Section 302.010, defining certain words and phrases used in the act, in order to give the former section its intended meaning.

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Considering the authority of the director of revenue to suspend the license of an operator or chauffeur, Section 302.280, supra, providing for the cause for suspension is made applicable to the director of revenue. Thus, that section provides that "the director shall suspend the license of an operator or chauffeur for a period of not to exceed one year, upon a showing by the records of the director, or any public records, that the operator or chauffeur has an unsatisfied judgment against him, * * *."

When a conviction is obtained in a court relating to the operation of motor vehicles, a record of said conviction, together with other action which may have been taken by the court, is to be submitted to the director of revenue. It is so provided in Section 302.225(2), which section reads as follows:

"Every court having jurisdiction over offenses committed under this chapter, or any other law of this state or municipal ordinance regulating the operation of vehicles on highways shall within ten days thereafter forward to the director upon forms to be furnished by the director a record of the conviction of any person in said court for a violation of any of said laws or ordinances other than non-moving traffic violations, together with the record of any action taken by the court in suspending or revoking the license of such person."

By compliance with the above section the director of revenue will have a record of causes for suspension as set out in Section 302.280, supra.

If from the information received from a court in connection with a conviction obtained therein, which becomes a record in the director of revenue's office, it appears that one or more of the causes for suspension exist, the director of revenue must suspend the license of the person in question even though no suspension was ordered by the court. We believe this action is required because of the mandatory character of Section 302.280, supra, as above quoted.

Your last conclusion is in regard to Section 302.225(5) and reads, "Apparently there is no provision made for the surrender of the suspended drivers license as there was in the old law. Please advise if this conclusion is correct."

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Section 302.225(5), referred to above reads as follows:

"Whenever any person is convicted of any offense in connection with which the court trying the person charged with the offense orders the suspension of the license of any operator or chauffeur to operate a motor vehicle, the court shall note the fact on the back of the license that the holder's right to drive a motor vehicle in such jurisdiction has been suspended for the period stated."

The provisions of this section do not require one convicted in a court having jurisdiction of an offense for which his operator's or chauffeur's license may be suspended and such license is ordered suspended, to surrender his license for the entire period of suspension, and neither does the court have the power under this section to order the surrender of the license for such period of time. However, the court does have the power and it is the duty to order the convicted person to turn over possession of his license for the purpose of making the notation on the back of the license, that said license had been suspended for the time specified thereon. After making the notation it is the further duty of the court to return the license to the holder. Therefore, your conclusion that Section 302.225(5) does not give the court power to order the surrender of the license for the suspension period is correct.

CONCLUSION

It is therefore, the opinion of this department that Section 302.170(3), RSMo 1949, was repealed by Amended Senate Committee Substitute for House Committee Substitute for House Bills No. 22, 49, 56 and 114 of the 66th General Assembly, which became effective January 1, 1952.

It is further the opinion of this department that under the provisions of Section 302.225(4) of above mentioned act, magistrate courts have power to order the suspension of operator's and chauffeur's licenses for causes provided in the act. That upon conviction of an offense in the magistrate court pertaining to the operation of motor vehicles, said court must report the conviction and suspension order, if one is made, to the director of revenue and provided by Section 302.225(2) of the act. Upon receipt of same, if one of the causes as provided in Section 302.280 appears to exist, it is the mandatory duty of the director of revenue to suspend the license for the period specified in the statute. Said court has no power to order the surrender

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of the license for the period of suspension, but under the provisions of Section 302.225(5) of said act, the court has the power, and it is his duty to order the surrender of the license so that it may be noted on the back of same, that said license has been suspended for the time specified therein, and that the holder's right to operate a motor vehicle for such period within the jurisdiction of the court has ceased. After making such notation the license must be returned to the holder, and the court cannot legally retain possession of it any longer.

Respectfully submitted,

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APPROVED:



J. E. TAYLOR
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