

COURTS:  
MAGISTRATE COURT:  
MOTOR VEHICLES:  
DRIVERS LICENSE:

A non-resident defendant convicted of any charge for which Chapter 302, RSMo as amended, makes mandatory the suspension or revocation of his privilege to operate a motor vehicle in this State must surrender

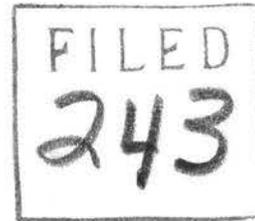
his license to the Court pursuant to Section 302.225, RSMo Sup. 1965 and the Court must, within ten days thereafter, forward the license, together with the record of conviction, to the Director of Revenue.

The Director should note on the back of the license that the privilege of the non-resident to drive a motor vehicle on the highways of this State is suspended for the required length of time or revoked and return the license as soon as possible to the licensee. The Director also should forward a certified copy of the record of conviction to the motor vehicle administrator in the state wherein the person so convicted is a resident. Section 302.150, RSMo.

OPINION NO. 243

November 2, 1967

Honorable Maurice B. Graham  
Prosecuting Attorney  
Madison County  
148 East Main Street  
Fredericktown, Missouri



Dear Mr. Graham:

This is in answer to your request for an opinion of this office as to whether a non-resident defendant who has pleaded guilty to a charge of driving a motor vehicle while in an intoxicated condition in violation of Section 564.440, RSMo Sup. 1965, should be required to surrender his license to the judge to be forwarded to the Director of Revenue.

Paragraph 2 of Section 302.225, RSMo Sup. 1965, reads as follows:

"2. Whenever any person is convicted of any offense or series of offenses for which this chapter makes mandatory the suspension or revocation of the operator's or chauffeur's license of such person by the director, the circuit court or magistrate court in which such conviction is had shall require the surrender to it of all operator's and chauffeur's licenses, then held by the person so convicted,

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and the court shall within ten days thereafter forward the same, together with a record of the conviction, to the director."

Section 302.302-1(7), RSMo Sup. 1965, provides for an assessment of 12 points for a conviction of operating a motor vehicle while in an intoxicated condition in violation of state law. Such an assessment requires the revocation of the person's operating privileges by the Director of Revenue. Section 302.304, RSMo Sup. 1965. Thus, when a person licensed under the laws of this state is convicted of driving while intoxicated in violation of Section 564.440, RSMo Sup., as amended, the convicting court is required to **pick** up his license and forward it to the Director of Revenue within ten days thereafter.

Of course, the State of Missouri may not suspend or revoke a license to drive issued by another state. However, the privilege of driving a motor vehicle on the highways of this state given to non-residents is subject to suspension and revocation by the Director of Revenue in like manner and for like cause as is the license of residents licensed under the laws of this state. Section 302.150, RSMo 1959. Thus it would appear that the procedure provided by Section 302.225, for suspending or revoking the license of a resident, would apply, "in like manner" to the suspension or revocation of the privilege of driving given a non-resident and, the non-resident would be required to surrender his license thereunder to be forwarded to the Director of Revenue.

If this procedure were not followed, the authority of the Director to suspend or revoke the driving privileges of non-residents would be incapable of enforcement and in most cases meaningless. Under the present law, the courts are not authorized to suspend or revoke a person's driver's license; this may be done only by the Director of Revenue. If the courts were not allowed to pick up the license of a non-resident convicted of an offense which makes mandatory the suspension or revocation of his driving privilege, there would be no way that notice of the suspension or revocation could be placed on the license or otherwise brought to the attention of the police or the court if he continued to drive.

It is presumed that the legislature does not intend to enact an absurd law incapable of being enforced. *City of Joplin v. Joplin Water Works*, Mo.Sup., 386 S.W.2d 369; *Memmel v. Thomas*, 238 Mo.App. 403, 181 S.W.2d 168. Unless some notice of the revocation of the driving privilege of a non-resident were placed upon his license, the revocation would as a practical matter, be meaningless.

As we previously stated, the State of Missouri may not suspend or revoke a driver's license issued by another state, but only the privilege of operating a motor vehicle in this state. Allowing the convicting court to pick up the license of a non-resident and to

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forward it to the Director of Revenue is justified only to effectuate the suspension or revocation of his privilege. The director must forward a certified copy of the record of conviction of the non-resident to the motor vehicle administrator in the state wherein the person so convicted is a resident. Section 302.150, RSMo. However, he has no authority to do anything with the person's license other than to note thereon the suspension or revocation of his privilege to drive in Missouri, and the director should then return the license to the non-resident as soon as possible.

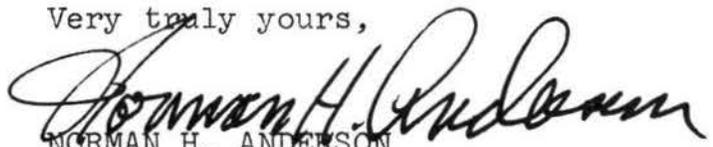
CONCLUSION

A non-resident defendant convicted of any charge for which Chapter 302, RSMo as amended, makes mandatory the suspension or revocation of his privilege to operate a motor vehicle in this State must surrender his license to the Court pursuant to Section 302.225, RSMo Sup. 1965; and the Court must, within ten days thereafter, forward the license, together with the record of conviction, to the Director of Revenue.

The Director should note on the back of the license that the privilege of the non-resident to drive a motor vehicle on the highways of this State is suspended for the required length of time, or revoked and return the license as soon as possible to the licensee. The Director also should forward a certified copy of the record of conviction to the motor vehicle administrator in the state wherein the person so convicted is a resident. Section 302.150, RSMo.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, John H. Denman.

Very truly yours,



NORMAN H. ANDERSON  
Attorney General