

December 17, 1971

OPINION LETTER NO. 476
Answer by letter-Wieler

Honorable Walter E. Allen
Prosecuting Attorney
Linn County Courthouse
Brookfield, Missouri 64628



Dear Mr. Allen:

This is in response to your request for an opinion as to the date at which points are assessed on the driving record of an individual when said individual is convicted of a traffic offense in a magistrate court but subsequently appeals to the circuit court.

Specifically, you have asked whether the points would be assessed as of the date of the original conviction in magistrate court, or as of the date the appeal to the circuit court is dismissed or results in conviction.

Section 302.302, RSMo 1969, provides that the Director of Revenue shall put into effect a point system for the suspension and revocation of chauffeur's and operator's licenses. Subsection 1 of that section provides that ". . . Points shall be assessed only after a conviction or forfeiture of collateral. . . ."

Section 302.010(4), RSMo 1969, provides the following definition of the term "conviction":

"'Conviction', any final conviction; also a forfeiture of bail or collateral deposited to secure a defendant's appearance in court, which forfeiture has not been vacated, shall be equivalent to a conviction, except that when any conviction as a result of which points are assessed under section 302.302 is appealed, the term 'conviction' means the original judgment

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of conviction for the purpose of determining the assessment of points, and the date of final judgment affirming the conviction shall be the date determining the beginning of any license suspension or revocation under section 302.304;"

Thus, the statutes clearly provide that points assessed on an individual driving record are to be applied as of the date of his original conviction in magistrate court.

Yours very truly,

JOHN C. DANFORTH
Attorney General