

MOTOR VEHICLE SAFETY
RESPONSIBILITY ACT:

Director of Revenue shall suspend license and registration of persons failing to satisfy judgments arising from motor vehicle accidents subsequent to the effective date of an Act found in Laws of Missouri, 1945, page 1207.



June 13, 1955

Honorable M. E. Morris
Director of Revenue
Jefferson Building
Jefferson City, Missouri

Dear Mr. Morris:

Reference is made to your request for an official opinion of this department reading as follows:

"In the administration of the Safety Responsibility Law for the past seventeen months, this office has frequently been requested to suspend the operation and registration privileges and all licenses evidencing these privileges of a judgment debtor who is involved in an accident prior to August 29th, 1953, the effective date of the present Safety Responsibility Law.

"In the first instant, the judgment became final and the statutory period of thirty days under the old Law had elapsed. (See Section 4(A) of the enclosed pamphlet.) In the second instant, the judgment became final prior to August 29th, 1953, but the statutory period of thirty days as provided in Section 4(A) referred to above had not elapsed. A third situation arises where a request is made to suspend the operation and registration privileges and all licenses evidencing such privileges of a judgment debtor who was involved in an accident prior to August 29th, 1953, but who had not had a judgment secured against him until after the effective date of August 29th, 1953.

"In the first instance, the judgment could have been certified to the old Financial Responsibility Unit as it was then comprised and action would have been taken to suspend the judgment debtor's operation and registration privileges. In the second case,

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the old Financial Responsibility Unit would have refused to suspend the judgment debtor because the statutory time had not elapsed.

"Due to the confusion which tends to arise in the above three instances, we respectfully request the opinion of the Attorney General as to whether or not the present Safety Responsibility Law gives the Director of Revenue the authority to suspend the operation and registration privileges and all licenses evidencing these privileges of the judgment debtor in each of the three situations in view of Section 303.360 of the Safety Responsibility Law as enacted in 1953."

Section 303.360, MoRS Cum. Supp. 1953, referred to in the above request, is as follows:

"303.360. Not to operate retrospectively.--1. Sections 303.010 to 303.370 shall not be construed so as to deprive any person of any rights which may have accrued before the effective date of this law, or as conferring any rights upon any person whose claim for relief arose prior to the effective date of this law, nor as preventing the plaintiff in any civil action from relying for relief upon other process provided by law."

After reading the context of the foregoing statute, it is believed that the first question that arises is as to just what significance may be given to a head-note or catch word. In the case of Southwestern Bell Telephone Co. vs. Drainage Dist. No. 5, 247 S.W. 494, at l.c. 495, Judge Farrington of the Springfield Court of Appeals stated for the Court:

" * * * The headnote of the compiler of section 10739 is not a part of the law and in no way binding. See State v. Maurer, 255 Mo. 152, 164 S.W. 551, Ann. Cas. 1915C, 178. * * *."

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The Maurer case mentioned supra, is even more descriptive as to the headnote's significance. At l.c., Mo., 160, Judge Robert Franklin Walker expressed the attitude of the Missouri Supreme Court in regard to headnotes or catch phrases, as follows:

"I. The headings of chapters, articles or sections are not to be considered in construing our statutes; these indicia are mere arbitrary designations inserted for convenience of reference by clerks or revisers, who have no legislative authority, and are, therefore, powerless to lessen or expand the letter or meaning of the law. * * *."

In accordance with the premise that the headnote or catch words to a statute do not constitute a part of a portion of the effective law it must be concluded that the noted quote, supra, "Not to operate retrospectively" means absolutely nothing. So far as the operation of the law is concerned, the words defining the time of operation and effect of the law should be found in the context. "Rights" as the term is used in Section 303.360, does not clearly and distinctively enough describe anything concerned with the administration of Chapter 303 (Section 303.360), MoRS Cum. Supp. 1953, to establish any limit whatsoever. It is believed that this law has been examined thoroughly since its passage as House Bill No. 19 and its effective date August 29, 1953. It is felt that it cannot be considered as bestowing any rights upon anyone as the word "rights" is commonly used. A license to operate a motor vehicle on the streets and highways is not a grant of an inalienable right. In Reitz vs. Mealey, 314 U.S. 33, 86 L. Ed. 21, Mr. Justice Roberts said, l.c. U.S. 37:

"If the statute went no further, we are clear that it would constitute a valid exercise of the state's police power not inconsistent with § 17 of the bankruptcy act. The penalty which § 94-b imposes for injury due to careless driving is not for the protection of the creditor merely but to enforce a public policy that irresponsible drivers shall not, with impunity, be allowed to injure their fellows. * * *."

The gist of the opinion in the above case is that a state law to keep irresponsible drivers off the highway is

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in the interest of public policy. Any rights accruing to anyone being, so far as the law is concerned, merely incidental. The section primarily involved in this opinion is Section 303.090, MoRS Cum. Supp. 1953. The pertinent part of that section is Subsection 1, which reads as follows:

"1. Whenever any person fails within sixty days to satisfy any final judgment in amounts and upon a cause of action as herein stated, it shall be the duty of the clerk of the court, or of the judge of a court which has no clerk, in which any such judgment is rendered within this state, to forward to the director immediately after the expiration of said sixty days, a certified copy of such judgment."

In the enactment of Chapter 303 in the above mentioned House Bill No. 19, the former law was specifically repealed. The repealed section was originally enacted in Laws of Missouri, 1945, page 1207, l.c. 1210. Section 4(a), which is quoted here for comparison, is as follows:

"Section 4. Commissioner to suspend license when any person fails to satisfy final judgment--not applicable, when.--(a) The commissioner also shall suspend the license and all registration certificates or cards and registration plates issued to any person upon receiving authenticated report, as hereinafter provided, that such person has failed for a period of 30 days to satisfy any final judgment in amounts and upon a cause of action as hereinafter stated."

Although not couched in the same language, no substantial difference can be found in the legal meaning of the two sections. The only exception is that the current statute has made the time of the report to the Director sixty days, where the former gave a thirty days period. It might be stated here that there is no substantial difference in the legal significance of the definition of the word "judgment" between the two sections. Upon the original enactment of the former law in 1945, the following provision was contained therein as Section 35:

"Section 35. Not retroactive.--This act shall not have a retroactive effect and shall not

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app apply to any judgment or cause of action arising out of an accident occurring prior to the effective date of this act."

This section, however, was repealed by Senate Revision Bill No. 1112 of the 65th General Assembly. It is no longer the law. The general rule as to a repealed statute, it is believed, was concisely stated in *State ex rel. Wayne County et al. vs. George E. Hackman, State Auditor*, 272 Mo. 600, l.c. 607, where the Court said:

"As a general rule, a statute expressly repealed is thereby abrogated and all proceedings commenced thereunder which have not been consummated are rendered nugatory unless the repealing act is modified by a saving clause. * * *."

It is believed that the major question involved here is best answered by Section 1.120, RSMo 1949, which is as follows:

"The provisions of any law or statute which is re-enacted, amended or revised, so far as they are the same as those of prior laws, shall be construed as a continuation of such laws and not as new enactments."

In *Brown vs. Marshall*, 241 Mo. 707, 145 S.W. 810, l.c. Mo. 728, the Court said:

"But independent of that, there is another sound rule of statutory construction which governs this case, and that is, a subsequent act of the Legislature repealing and reenacting, at the same time, a pre-existing statute, is but a continuation of the latter, and the law dates from the passage of the first statute and not the latter. * * *."

Certainly, the effect of the law should not be destroyed by the repeal and re-enactment as has occurred here. It is believed that the proper interpretation is that on a judgment obtained prior to the effective date of the present law upon which there has been no certification by the clerk or court

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as directed, should not be certified until sixty days after rendition in the event no appeal or stay is in effect. On any judgment occurring subsequent to the effective date of the 1945 Act, the Director must suspend, upon receiving proper notice given sixty days after the judgment. The sixty days is the time limit given to a debtor in which to satisfy an outstanding judgment prior to notice to the Director and appears to be the only limitation set up in the statute. It must be noted that it is not attempted herein to determine the effect of the law in regard to a judgment obtained prior to the effective date of the above quoted 1945 statute.

CONCLUSION

It is, therefore, the opinion of this office that the Director of Revenue shall suspend the motor vehicle operator's license and motor vehicle registration and any non-resident operating privileges upon receipt from the clerk or judge of any magistrate or circuit court, an unsatisfied judgment arising from the operation of a motor vehicle, provided such judgment is unsatisfied for sixty days or over.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, Mr. James W. Faris.

Very truly yours,

JOHN M. DALTON
Attorney General

JWF:irk:gm