

LIMITED DRIVING PRIVILEGES:  
MOTOR VEHICLES:  
DRIVERS' LICENSES:

The courts have no authority to grant limited or hardship driving privileges to any individual whose license has been revoked for a second conviction for driving while intoxicated under §564.440, RSMo Supp. 1967.

October 7, 1969

OPINION NO. 438

Mr. James E. Schaffner  
Director of Revenue  
Department of Revenue  
Jefferson Building  
Jefferson City, Missouri



Dear Mr. Schaffner:

This is in reply to your request for an opinion of this office concerning the authority of courts to grant limited driving privileges to individuals convicted twice of driving while intoxicated under §564.440, RSMo Supp. 1967.

We have previously issued Attorney General's Opinion No. 440, dated November 3, 1966, to the Honorable Lawrence J. Lee, holding that limited driving privileges may not be granted to a person convicted of a second offense of operating a motor vehicle while in an intoxicated condition in violation of §564.440, RSMo Supp. 1965. That opinion was based upon the specific language of paragraph (5) of such section which precluded the granting of limited driving privileges after the second conviction. However, since §564.440, RSMo Supp. 1965 was amended in 1967 and paragraph (5) was deleted, Opinion No. 440 is no longer applicable and is being withdrawn.

We nevertheless adhere to the same conclusion for a different reason. §302.309, RSMo Supp. 1967, which is the authority for granting limited driving privileges, specifically provides in subdivision (5) (a) of subsection 3 that:

"(5) No person is eligible to receive hardship driving privilege whose license has been suspended or revoked for the following reasons:

"(a) \* \* \* or who has been convicted for the

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second time for violating the provisions of  
section 564.440;"

CONCLUSION

It is our opinion, therefore, that the courts have no authority to grant limited or hardship driving privileges to any individual whose license has been revoked for a second conviction for driving while intoxicated under §564.440, RSMo Supp. 1967.

This opinion, which I hereby approve, was prepared by my assistant Walter W. Nowotny, Jr.

Very truly yours,



JOHN C. DANFORTH  
Attorney General