

LICENSES: A person whose driver's license has expired can be placed under suspension or
MOTOR VEHICLES: revocation by the Director of Revenue
CRIMINAL LAW: upon the accumulation of the necessary
DIRECTOR OF REVENUE: points; and such a person, or a person
whose license expires subsequent to the issuance of a revocation
or suspension, is subject to prosecution under Section 302.321,
RSMo Supp. 1973, if apprehended while driving during the period
in which the suspension or revocation is in effect.

OPINION NO. 200

May 13, 1974

Mr. James R. Spradling
Director of Revenue
Department of Revenue
Room 401, Jefferson State Office Building
Jefferson City, Missouri 65101



Dear Mr. Spradling:

This official opinion is issued in response to your question as to what action should be taken by the Director of Revenue against a person who has accumulated a sufficient number of points through traffic convictions to require a suspension or revocation of his driver's license, but whose license has expired prior to the time suspension or revocation can be ordered. Also, you have raised the question as to the violation committed by a person who is arrested for driving while under revocation or suspension but whose license has expired subsequent to the suspension or revocation but prior to the arrest.

In Opinion No. 332 issued September 18, 1969, to the Honorable Urban C. Bergbauer, Jr., we discussed these questions and reached the conclusion that a person whose driver's license has expired is not a person whose license can be revoked, and further, that such a person would not be subject to prosecution for driving while under revocation or suspension under the provisions of Section 302.321, RSMo 1969, but rather would have to be prosecuted under Sections 302.020 and 302.340, RSMo 1969, for driving without a valid operator's license.

However, significant changes in the driver's license law subsequent to the issuance of Opinion No. 332, 1969, have caused us to withdraw such opinion. Subsection 2 of Section 302.304, RSMo Supp. 1973, now requires the Director of Revenue to suspend the driver's license and driving privileges of any person whose driving record shows he has obtained or accumulated eight points in

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eighteen months. Subsection 3 of that statute requires the Director of Revenue to revoke the driver's license and driving privileges of any person whose driving record shows that he has obtained or accumulated twelve points in twelve months or eighteen points in twenty-four months or twenty-four points in thirty-six months. Section 302.321, RSMo Supp. 1973, has been changed to provide for misdemeanor penalties for anyone convicted of driving during the period of time that his license and driving privilege has been suspended or revoked.

The addition of the phrase "and driving privileges" in the above statutes has created a significant change in the driver's license law. It is no longer necessary that a valid driver's license be outstanding prior to the issuance of a revocation or suspension notice by the Director of Revenue to a person whose driving record shows the accumulation of sufficient points. The Director is now authorized to suspend or revoke the driving privileges in addition to the driver's license. Further, such a person, or a person whose license expires subsequent to the date of suspension or revocation by the Director of Revenue, can be prosecuted under Section 302.321 if apprehended while driving.

CONCLUSION

It is the opinion of this office that a person whose driver's license has expired can be placed under suspension or revocation by the Director of Revenue upon the accumulation of the necessary points; and such a person, or a person whose license expires subsequent to the issuance of a revocation or suspension, is subject to prosecution under Section 302.321, RSMo Supp. 1973, if apprehended while driving during the period in which the suspension or revocation is in effect.

The foregoing opinion, which I hereby approve, was prepared by my assistant, Richard L. Wieler.

Yours very truly,



JOHN C. DANFORTH
Attorney General