

DEPARTMENT OF PUBLIC SAFETY: Section 303.024, RSMo, as
FINANCIAL RESPONSIBILITY amended by Senate Substitute
MOTOR VEHICLE LAW: for House Substitute for
MOTOR VEHICLE RESPONSIBILITY LAW: House Bill No. 1574, 86th
MOTOR VEHICLES: General Assembly, Second
PEACE OFFICERS: Regular Session (1992),
POLICE: authorizes a law enforcement
officer who lawfully stops an
operator of a motor vehicle to notify the Director of Revenue if
the operator fails to exhibit an insurance identification card
but does not authorize the officer to make an arrest and issue a
Uniform Complaint and Summons for failure to exhibit an
insurance identification card or failure to maintain financial
responsibility.

December 2, 1992

OPINION NO. 161-92

Richard C. Rice, Director
Missouri Department of Public Safety
Post Office Box 749
Jefferson City, Missouri 65102

Dear Director Rice:

This opinion is in response to your question asking:

Are violations of statutes found in Chapter 303 RSMo., criminal in nature, and if so, may law enforcement officers enforce provisions of 303.024 RSMo., for "failure to display an insurance identification card" and 303.025 RSMo., "failure to maintain financial responsibility" by making arrests and issuing Uniform Complaint and Summonses as authorized in the penalty statute found in 303.370 RSMo.?

Along with your question, you state:

In performance of duties, law enforcement officers frequently encounter motorists who either fail to maintain financial responsibility (insurance) or fail to display upon demand, an insurance identification card as required in Chapter

Richard C. Rice, Director

303 RSMo. When encountering such motorists, officers normally forward a report to the Director of Revenue who will then require the motorist to provide financial responsibility or have their driving privilege suspended until they comply as directed. . . .

Section 303.024, RSMo, as amended by Senate Substitute for House Substitute for House Bill No. 1574, 86th General Assembly, Second Regular Session (1992), sets out requirements for insurance identification cards to be provided by each insurer issuing motor vehicle liability policies in Missouri. Subsection 5¹ provides:

303.024. Insurance identification cards issued by insurer, contents-- identification cards for self-insured issued by director, contents--exhibition of card to peace officers, failure to exhibit.--

* * *

5. An insurance identification card shall be carried in the insured motor vehicle at all times. The operator of an insured motor vehicle shall exhibit the insurance identification card on the demand of any peace officer who lawfully stops such operator while that officer is engaged in the performance of the duties of his office. If the operator fails to exhibit an insurance identification card, the officer shall notify the director of revenue, in the manner determined by the director. A motor vehicle liability insurance policy, a motor vehicle liability insurance binder, or receipt which contains the policy information required in subsection 2 of this section, shall be satisfactory evidence of insurance in lieu

¹The 1992 amendment to Section 303.024 did not change the provisions of subsection 5.

Richard C. Rice, Director

of an insurance identification card.
[Emphasis added.]

Section 303.025, RSMo 1986, sets forth the requirement for an owner of a motor vehicle to maintain financial responsibility. Subsections 1 and 2 of Section 303.025 provide:

303.025. Duty to maintain financial responsibility, methods.--1. No owner of a motor vehicle registered in this state shall operate the vehicle, or authorize any other person to operate the vehicle, unless the owner maintains the financial responsibility as required in this section. Furthermore, no person shall operate a motor vehicle owned by another with the knowledge that the owner has not maintained financial responsibility unless such person has financial responsibility which covers his operation of the other's vehicle.

2. A motor vehicle owner shall maintain his financial responsibility in a manner provided for in section 303.160, or with a motor vehicle liability policy which conforms to the requirements of the laws of this state.

* * *

Section 303.026, RSMo 1986, provides:

303.026. Director to notify owners who register vehicles, contents--certified statement of financial responsibility required for registration--random samples to be taken for verification.--1. The director shall inform each owner who registers a motor vehicle of the following:

(1) The existence of the requirement that every motor vehicle owner in the state maintain his financial responsibility;

(2) The penalties which apply to violations of the requirement to maintain financial responsibility;

Richard C. Rice, Director

(3) The benefits of maintaining coverages in excess of those which are required;

(4) The director's authority to conduct samples of Missouri motor vehicle owners to insure compliance.

2. No motor vehicle owner shall be issued registration for a vehicle unless the owner, or his authorized agent, signs a statement provided by the director of revenue at the time of registration of the vehicle certifying that such owner has and will maintain, during the period of registration, financial responsibility with respect to each motor vehicle that is owned, licensed or operated on the streets or highways.

3. The director shall annually select for financial responsibility verification, a sample of the motor vehicle registrations or licenses which is statistically significant to determine the number of insured motorists in the state of Missouri, or to insure compliance. The director may utilize a variety of sampling techniques including but not limited to the processing of uniform traffic tickets, point system warning letters, and random surveys of motor vehicle registrations.

4. Upon determination that the information provided by the owner or authorized agent is inaccurate, the director shall notify the owner of the need to provide, within thirty days, information establishing the existence of the required financial responsibility as of the date of such notice. Failure to provide such information shall result in the suspension of all registrations of the owner's motor vehicles failing to meet such requirements, as is provided in section 303.041.
[Emphasis added.]

Section 303.041, RSMo 1986, provides for the suspension of the license of the owner or operator and the registrations of

Richard C. Rice, Director

the owner's motor vehicles for failure to maintain financial responsibility. Such section provides in part:

303.041. Failure to maintain financial responsibility--suspension of license and registration--notice--failure to surrender license or registration, fee.--1. If the director determines that the operator or owner of a motor vehicle has not maintained the financial responsibility required in section 303.025 as a result of a financial responsibility verification sample as provided for in section 303.026, or as a result of an accident report as required by section 303.040, or either, the director shall thirty-three days after mailing notice to the owner or operator suspend the license of the owner or operator, or both, and all registrations of the owner's motor vehicles failing to meet such requirement. The notice of suspension shall be mailed to the person at the last known address shown on the department's records, and to the address provided by the accident report if that address differs from the address of record. The notice is deemed received three days after mailing. The notice of suspension shall clearly specify the reason and statutory grounds for the suspension and the effective date of the suspension, the right of the person to request a hearing, the procedure for requesting a hearing, and the date by which that request for a hearing must be made.

* * *

In Downs v. Director of Revenue, 791 S.W.2d 851 (Mo. App. 1990), the court of appeals interpreted Section 303.024.5, stating:

The penalty for failure to produce an insurance card on lawful demand appears to be the possibility that appellant [Director of Revenue] will shortly request proof of insurance; the failure to produce a card is not directly penalized.

Richard C. Rice, Director

Id. 791 S.W.2d at 853 [Court's emphasis]. Similarly, the failure to maintain financial responsibility as required in Section 303.025 is penalized by Section 303.041 through the suspension of the license of the owner or operator and the registrations of the owner's motor vehicles.

Your statement of facts accompanying your question indicates that officers are currently acting in compliance with the provisions of Section 303.024.5 by notifying the Director of Revenue of a driver's failure to exhibit an insurance identification card. This procedure is consistent with the responsibilities of the Director of Revenue set out in Section 303.026.

Notice to the Director that a person has failed to exhibit an insurance identification card upon demand by an officer acting pursuant to § 303.024.5, RSMo 1986, is a sampling technique under § 303.026.3, RSMo 1986.

Cillo v. Director of Revenue, State of Missouri, 782 S.W.2d 81, 82 (Mo. App. 1989).

Your question refers to a provision in Section 303.370, RSMo 1986, which provides:

303.370. Offenses, penalties.--

* * *

5. Any person who shall violate any provision of this chapter for which no penalty is otherwise provided shall be fined not more than five hundred dollars or imprisoned not more than ninety days, or both. [Emphasis added.]

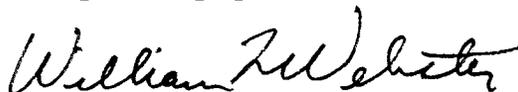
Section 303.370.5 applies only where there is no penalty otherwise provided. In this instance, the legislature has provided for a penalty through the provisions of Sections 303.024, 303.026, and 303.041. See Downs v. Director of Revenue, supra. Moreover, in Section 303.024.5 the legislature has expressly set out the course of action to be followed by law enforcement officers. Section 303.370.5 is not applicable.

Richard C. Rice, Director

CONCLUSION

It is the opinion of this office that Section 303.024, RSMo, as amended by Senate Substitute for House Substitute for House Bill No. 1574, 86th General Assembly, Second Regular Session (1992), authorizes a law enforcement officer who lawfully stops an operator of a motor vehicle to notify the Director of Revenue if the operator fails to exhibit an insurance identification card but does not authorize the officer to make an arrest and issue a Uniform Complaint and Summons for failure to exhibit an insurance identification card or failure to maintain financial responsibility.

Very truly yours,



WILLIAM L. WEBSTER
Attorney General