

MOTOR VEHICLES: Municipal courts are not required to report violations of city ordinances in reference to motor vehicles to the Commissioner of Motor Vehicles.

December 21, 1938

Honorable Dwight H. Brown
Secretary of State
Jefferson City, Missouri

Attention Mr. V. H. Steward
Commissioner of Motor Vehicles

Dear Sir:

We have your letter of December 20, 1938, requesting an opinion from this department, which reads as follows:

"We would appreciate receiving an opinion from your office in connection with Paragraph b, of Section 17, Missouri State Drivers' License Law.

"It is quite often the case that the operators of motor vehicles are arrested and arraigned in police or municipal courts and charged with offenses which are included in Section 18. These offenses are either felonies or graduated felonies, but it appears that practically all of the cities have ordinances which provide for the prosecution and conviction in their courts of defendants charged with this sort of violation. We would like to know if this Drivers' License Act requires that these municipal courts report to the Commissioner of Motor Vehicles convictions upon these violations.

"It would most certainly seem to be reasonable that they should either report these convictions or that the disposition of such cases be referred to the prosecuting attorneys having jurisdiction."

12-22
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12

Section 7780, Session Laws of Missouri, 1935, page 294, reads in part as follows:

"(b) Municipalities may, by ordinance, make additional rules of the road or traffic regulations to meet their needs and traffic conditions; * * *

"(c) * * * Provided, however, that municipalities may * * * require operators of motor vehicles residing within their limits to submit to reasonable examinations and investigation as to their physical fitness and competency to operate motor vehicles, and to obtain a license to so operate such motor vehicles and pay a fee therefor of not more than fifty cents (50¢) for two (2) years."

Under the above partial sections, municipalities have been authorized to regulate the rules of the road and provide for the issuance of city drivers' licenses, but such rules and regulations are governed and regulated either by city charters or by municipal ordinances.

Section 17, paragraph (b), Session Laws of Missouri, 1937, page 376, reads as follows:

"Every court having jurisdiction over offenses committed under this act or under the provisions of any statute of this State regulating the operation of motor vehicles on highways, or any felony in the commission of which a motor vehicle is used, shall forward to the commissioner a record of the conviction of any person in said court for a violation of any of said laws, and every such court, except justice of the peace courts, and courts of criminal correction in the City of St. Louis shall have the power of suspending or revoking the license of any licensee under this act or the certificates of registered chauffeurs or registered operators under Sections 7765 and 7766, Revised Statutes

of Missouri, 1929, and amendments thereto, and shall certify to the commissioner a record of such suspension or revocation. Every justice of the peace and each judge of the courts of criminal correction of the City of St. Louis shall forward to the commissioner a record of the conviction of any person in his court for a violation of any of said laws for which he shall receive a fee of fifty cents to be taxed as costs in the case, and may recommend to the commissioner a suspension or revocation of said person's license or the certificate of such chauffeur or registered operator. The commissioner may suspend or revoke the license or certificates of any of the persons convicted as aforesaid."

Section 18, Session Laws of Missouri, 1937, page 377, reads as follows:

"The commissioner shall forthwith revoke the license of any operator, registered operator or chauffeur upon receiving a record of such operator's, registered operator's or chauffeur's conviction of any of the following offenses, when such conviction has become final:

"1. Manslaughter (or negligent homicide) resulting from the operation of a motor vehicle;

"2. Driving a motor vehicle while under the influence of intoxicating liquor or a narcotic drug;

"3. Any felony in the commission of which a motor vehicle is used."

Under Section 17, paragraph (b), the law prescribes that "every court having jurisdiction over offenses committed under this act or under the provisions of any statute

of this state regulating the operation of motor vehicles on highways, or any felony in the commission of which a motor vehicle is used, shall forward to the commissioner a record," etc. Under this paragraph the state law specifically says that every court having jurisdiction over offenses committed "under this act or under the provisions of any statute of this state" --and does not say "under any city ordinance or city charter"--"shall forward to the commissioner a record," etc. It will also be noticed under this paragraph that after a record of the conviction has been sent to the commissioner of motor vehicles under said paragraph, the commissioner may revoke the license, which means it is merely directory and not mandatory.

Under Section 18 as above set out, which provides for the revocation of the license of any operator upon conviction of either of the two graded felonies or the felony as set out, the commissioner shall forthwith revoke the license, etc. Under this section it is mandatory that the commissioner revoke the license.

Paragraph 1 of Section 18 reads as follows:

"Manslaughter (or negligent homicide) resulting from the operation of a motor vehicle."

Under this paragraph manslaughter is a graded felony and is punishable in accordance with Section 3997, R. S. Mo. 1929, which reads as follows:

"Persons convicted of manslaughter shall be punished by imprisonment in the penitentiary for not less than two nor more than ten years, or by imprisonment in the county jail not less than six months, or by both a fine not less than one hundred dollars and imprisonment in the county jail not less than three months."

Paragraph 2 of Section 18 reads as follows:

"Driving a motor vehicle while under the influence of intoxicating liquor or a narcotic drug."

The violation of this paragraph is a graded felony as set out in paragraph (g) of Section 7783, R. S. Mo. 1929, which reads as follows:

"Driving in intoxicated condition:
No person shall operate a motor vehicle while in an intoxicated condition, or when under the influence of drugs."

Driving a motor vehicle while under the influence of intoxicating liquor or a narcotic drug is a graded felony and is punishable according to Section 7786, paragraph (c), R. S. Mo. 1929, which reads as follows:

"Any person who violates paragraph (a) of section 7781, paragraph (a) of section 7782 or paragraph (f) or (g) of section 7783 shall be deemed guilty of a felony and on conviction thereof shall be punished by imprisonment in the penitentiary for a term not exceeding five years or by confinement in the county jail for a term not exceeding one year, or by a fine not exceeding one hundred dollars (\$100.00) or by both such fine and imprisonment."

Paragraph 3 of Section 18, which states:

"Any felony in the commission of which a motor vehicle is used,"

is strictly a felony and not a graded felony, the minimum punishment for which is two years in the state penitentiary.

Under the above three paragraphs of Section 18, Laws of Missouri, 1937, page 377, a justice court or a municipal court would not have jurisdiction to accept a plea of guilty on account of having jurisdiction of felonies or graded felonies. Municipal courts have no jurisdiction over the violation of any state law and only have jurisdiction over the violation of city ordinances, which would not be the violation of Section 17, Laws of Missouri, 1937, page 376.

CONCLUSION

In view of the above authorities, it is the opinion of this department that police courts or municipal courts are not compelled by Section 17 or Section 18 of the Laws of Missouri, 1937, pages 376-377, to report convictions to the commissioner of motor vehicles for the violation of city ordinances which, if prosecuted under the state law, would be a violation of Section 17 or Section 18 of the Drivers' License Law of 1937.

Respectfully submitted

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APPROVED:

J. E. TAYLOR
(Acting) Attorney General

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