

MOTOR VEHICLES:

Proof of financial responsibility
to be given only by judgment

PROOF OF FINANCIAL RESPONSIBILITY:

debtor whose driver's license was
suspended; when.

September 5, 1950



Mr. John H. Allison, Supervisor
Motor Vehicle Registration and
Drivers' License Department
Jefferson City, Missouri

Dear Sir:

This is to acknowledge receipt of your request for a legal
opinion of this department, said request reading as follows:

"This department respectfully requests an
opinion from your office as follows: We
refer to the Laws of Missouri 1945, pages
1210 & 1211 - Sections 4 (a) and 5 (a).

"In this special case a truck company has
a man driving for them who recently was
involved in an automobile accident, judg-
ment was secured against this party for
\$458.00 in a Magistrate Court at St. Louis,
Missouri.

"After several months the defendant by
having his salary garnished and this
department suspending his license, satis-
fied the judgment. However in our opinion
he has not complied with paragraph (a) in
regard to Financial Responsibility. The
defendant is employed by a trucking company.
They have their truck drivers insured with
an insurance company, but we have no record
of a policy in the name of the defendant,
and the trucking company contends that as
the defendant does not own any car the
insurance company will not insure him; how-
ever the trucking company states that all
their trucks, and the one the defendant
operates for them is insured. Would you
consider the above facts sufficient to com-
ply with the requirements of Paragraph (a)
as above referred to?"

Section 4(a), pages 1210 and 1211, Laws of 1945, authorizing the suspension of the driver's license of a person against whom a judgment has been obtained under the provisions of the Motor Vehicle Act, read as follows:

"(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."

Section 5(a), page 1211, Laws of 1945, provides that the suspension shall remain in effect and reads as follows:

"(a) The suspensions required in Section 4 shall remain in effect and no other motor vehicle shall be registered in the name of such judgment debtor nor any new license issued to such person for the vehicle involved unless and until such judgment is satisfied or stayed and the judgment debtor gives proof of financial responsibility in future, as hereinafter provided, except under the conditions as herein stated in the next succeeding sections."

From the facts outlined in the opinion request it appears that a final judgment was rendered against the defendant by a magistrate court in St. Louis, Missouri, in the sum of \$458.00, and involved an automobile accident alleged to have been caused by the negligence of the defendant. Upon defendant's failure to pay the judgment over a period of several months, proper certification of the judgment was made to the Commissioner of Motor Vehicles, who thereupon suspended the driver's license of the defendant under the provisions of Sections 4(a) and 5(a), supra, of the 1945 Laws.

Since the defendant does not now own a motor vehicle and is employed as chauffeur of a truck owned by a trucking company of Missouri, the employer contends that defendant cannot obtain automobile liability insurance as a sufficient compliance with the financial responsibility statutes, thereby authorizing the Commissioner to issue a new driver's license to the defendant.

It is also contended that proof of financial responsibility on the part of defendant is not required, since the employer carries insurance on all its trucks, including the one driven by defendant.

The Commissioner contends that defendant has not furnished proof of his financial responsibility within the meaning of the statutes, and has requested the further opinion of this department as to whether it is believed defendant has furnished the necessary proof required under such statutes sufficiently to justify the issuance of a new driver's license to defendant.

Section 14 in effect provides that proof of financial responsibility may be made, (1) by evidence that an insurance policy or policies have been obtained and are in full force and effect, naming the person required to furnish such proof, as the insured, and meeting the requirements of Section 18 of the Act, or (2) that such person has deposited securities or money in the manner provided by Section 24 of the Act.

Since the inquiry regarding proof of financial responsibility involves an insurance policy or policies to be furnished, or not to be furnished by defendant individually, only that type of proof of financial responsibility will be discussed here. Section 15(a) in regard to such insurance policies reads as follows:

"Proof of financial responsibility may be made by filing with the commissioner the written certificate or certificates of any insurance carrier duly authorized to do business in this state, certifying that it has issued to or for the benefit of the person furnishing such proof and named as the insured a motor vehicle liability policy or policies, or in certain events an operator's policy, meeting the requirements of this act, and that said policy or policies are then in full force and effect. Such certificate or certificates shall give the dates of issuance and expiration of such policy or policies and certify that the same shall not be cancelled unless 10 days prior written notice thereof is given to the commissioner and explicitly shall describe all motor vehicles covered thereby, unless the policy or policies are issued to a person who is not the owner of a motor vehicle."

While the nature of the insurance policy or policies defendant's employer now has upon the truck driven by defendant is not disclosed, and while such policies may be sufficient liability coverage for the purpose for which they were issued, it appears that such policies naming the trucking company as the insured would not be a sufficient compliance with the financial responsibility statutes on the part of defendant. Said statutes, particularly Section 5(a), supra, provides that the Commissioner shall not issue a new license until the judgment debtor furnishes proof that the judgment against him has been paid, and also furnishes proof of his ability to maintain his financial responsibility in the future. Both acts on the part of the judgment debtor are required to be performed by him individually; performance of either requirement without the other not being a sufficient compliance with the statute. The statute makes no provision for either or both requirements being performed by any person but the judgment debtor, except in one instance.

Where it appears to the commissioner that a person whose driver's license has been suspended and such person is required to give proof of financial responsibility because of a conviction of an offense while driving a motor vehicle belonging to another, and that at the time of the conviction such driver was the chauffeur or a member of the motor vehicle owner's family, then the owner may furnish proof of financial responsibility required of such chauffeur or other person; this procedure is authorized under the provisions of Section 11 of the Act.

From the facts before us it does not appear that defendant was convicted of an offense constituting a violation of any of the provisions of the motor vehicle statutes for which the Commissioner suspended his driver's license, and has required him to furnish proof of financial responsibility in the future, before issuing a new license to defendant. Neither does it appear that at the time of any such conviction defendant was the chauffeur, or the member of the motor vehicle owner's family, or that he was so employed at the time of any such conviction. In the absence of a showing that all of such facts appear, the provisions of Section 11 may not be invoked and the employer of defendant cannot legally furnish proof of financial responsibility for defendant, but since defendant is the judgment debtor, and the person required under above statutory provisions to furnish such proof, the furnishing, or offer to furnish such proof by another person, is sufficient and will not excuse a failure to furnish same by defendant individually.

While it appears that defendant has satisfied the judgment against him, it does not appear that he has made any attempt to

offer proof of his financial responsibility, and to maintain such proof in the future as required by the statutes, and that until such time as satisfactory proof of financial responsibility is offered to the Commissioner by defendant, the Commissioner will not be authorized under the provision of any statute to issue a new driver's license to defendant.

In the event defendant should offer proof of financial responsibility in the form of automobile liability insurance policy or policies, it appears that an operator's policy or policies of the type and coverage described in Sections 16(b) and (c), and also meeting the requirements for such policies provided by Section 18 of the Act, will be a sufficient compliance with the financial responsibility statutory provisions by defendant, after which the Commissioner will be authorized to issue the driver's license.

CONCLUSION

It is the opinion of this department that a person whose motor vehicle driver's license has been suspended for failure to satisfy a final judgment against him, under the provisions of Sections 4(a) and 5(a), pages 1210 and 1211, Laws of 1945, is not entitled to have a new license issued to him by the Motor Vehicle Commissioner of Missouri until such person gives proof to the Commissioner that the judgment has been fully satisfied, and proof of the ability of the judgment debtor to maintain his financial responsibility in the future by one of the two alternate methods provided by Section 14, page 1214, of said 1945 Laws. That is, by offering proper proof that he has obtained one or more policies of liability insurance which are in full force and effect, or that a bond has been duly executed, or that money or securities have been deposited with the State Treasurer in the manner provided by said Act.

Respectfully submitted,

PAUL N. CHITWOOD
Assistant Attorney General

APPROVED:

J. E. TAYLOR
Attorney General