

MOTOR VEHICLE:
DRIVER'S LICENSE:
MUNICIPAL COURTS:
CIRCUIT COURTS:
DRUNKEN DRIVING:
RECKLESS DRIVING:

Circuit court cannot revoke, but may suspend, driver's license for violation of city ordinance. Record of such conviction sent to Director of Revenue. Director cannot revoke license because of conviction of violation of ordinance, but can suspend if person is "habitual violator".



April 1, 1954

Honorable Richard K. Phelps
Prosecuting Attorney
Jackson County,
Kansas City, Missouri

Dear Sir:

This is in answer to your letter of recent date, requesting an official opinion of this office, and reading as follows:

- "1. Does a Judge of the Circuit Court of Jackson County, Missouri, have the authority and power to revoke or suspend a driver's license for conviction under the city ordinances of Kansas City, Missouri for drunken driving or for reckless driving?
- "2. Is it a legal duty incumbent on the clerk of the court to forward to the office of the Director of Revenue of Jefferson City the record of conviction of a driver for drunken driving or reckless driving?
- "3. Does the Director of Revenue have the right and authority to revoke or suspend a drivers' license for conviction under the city ordinances of Kansas City, Missouri, for drunken or reckless driving?
- "4. When a driver is convicted in the Municipal Court of Kansas City, Missouri, for violation of the city ordinances relating to drunken driving and reckless driving and his driver's license has been suspended for such conviction does the Circuit Court on appeal from such conviction in a trial de novo, have authority to suspend or revoke the drivers' license if a conviction is had on said appeal?"

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Subsection 3 of Section 302.225 reads as follows:

"No municipal court or municipal official shall have power to revoke any operator's license or chauffeur's license; but, in addition to all other jurisdiction heretofore given by law, the municipal court of any city of this state which now has or which may hereafter have more than three hundred thousand inhabitants shall have power and jurisdiction to suspend the license of any operator or chauffeur to operate a motor vehicle within the corporate limits of the municipality in which such offense was committed and where such municipal court otherwise has jurisdiction, for a period of not to exceed three months; such suspension shall be ordered only for any of the causes given in sections 302.271 and 302.281 authorizing revocation and suspension of licenses by the director."

It is clear from the provisions of such subsection that no authority exists in the municipal court of a city of over three hundred thousand inhabitants, of which Kansas City is one, to revoke a driver's license, but such court may, for the causes contained in Section 302.271 and 302.281, L. of Mo. 1951, p. 678, suspend the license of an operator or chauffeur to operate motor vehicles within the corporate limits of such municipality for a period not in excess of three months.

The power of the circuit court on appeal is no greater than the power of the municipal court wherein prosecutions for violations of ordinances must be initiated.

Section 302.271, L. of Mo. 1951, p. 678, provides in part as follows:

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

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

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"(6) Conviction, or forfeiture of bail not vacated, upon three charges of careless or reckless driving committed within a period of two years."

Since drunken driving and reckless driving are "causes given in Section 302.271," the judge of a circuit court in a city of over three hundred thousand has the power to suspend a driver's license within the confines of the municipality for not to exceed three months, where a conviction is had on appeal in such circuit court for a violation of a municipal ordinance relating to drunken driving and to suspend the license of a person convicted for a third time within two years of a violation of a city ordinance relating to reckless driving, when such case has been appealed.

We do not believe that the provisions of Subsection 4 of Section 302.225, L. of Mo., 1951, p. 678, which provides as follows:

"4. The magistrate courts of each county and the circuit courts of the various counties of this state shall have power to suspend for the causes herein provided for a period not to exceed one year the license of any operator or chauffeur to operate a motor vehicle within the entire state, and any circuit court or magistrate court may revoke for the causes herein provided the license of any such operator or chauffeur to operate a motor vehicle within this state, whether the case is on appeal or has originated in such court."

is any authority for holding that a circuit court may revoke or suspend for a year a driver's license because of a violation of city ordinances.

Subsection 2 of Section 302.225, L. of Mo. 1951, p. 678, provides as follows:

"Every court having jurisdiction over offenses committed under this chapter, or any other law of this state or municipal ordinance regulating the operation of vehicles on highways shall within ten days thereafter forward to the director upon forms to be furnished by the director a record of the conviction of any person in said court for a violation of any of said laws or ordinances other than nonmoving traffic violations, together with the record of any action taken by the court

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in suspending or revoking the license of such person."

We believe it is clear from the provisions of Subsection 2 of Section 302.225 that it is the duty of the circuit court to see that there is forwarded to the Director of Revenue a record of the conviction of any person in such court for violating city ordinances relating to drunken driving and reckless driving within ten days after his conviction becomes final.

With regard to your third question, we are enclosing an official opinion of this office rendered under date of March 31, 1954, to M. E. Morris, which opinion we believe answers such question. However, it is to be noted that under the provisions of Section 302.281, L. of Mo. 1951, p. 678, provision is made for the suspension of a driver's license by the Director of Revenue if such person "is an habitual violator of traffic laws."

Subsection 8 of Section 302.010, L. of Mo. 1951, p. 678, defines an habitual traffic violator as "a person who has been adjudged guilty at least five times within one year of violating any traffic laws or ordinances other than nonmoving traffic violations;".

Of course, any person who was convicted five times within one year of violating municipal ordinances relating to drunken driving or reckless driving would be an habitual violator of traffic laws, and his driver's license would be suspended by the Director of Revenue under the provisions of Section 302.281.

CONCLUSION

It is the opinion of this office that the circuit court of Jackson County does not have authority to revoke a driver's license when the driver has been convicted on appeal in such court for the violation of city ordinances of Kansas City relating to driving while intoxicated or reckless driving.

Such court may suspend the driver's license to operate in the municipality for a period not in excess of three months for a conviction of violating a city ordinance relating to drunken driving, or may suspend the license to operate within the municipality not in excess of three months for a third conviction within two years of the violation of a city ordinance relating

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to reckless driving.

It is the duty of the circuit court to forward to the Director of Revenue of Missouri a record of all convictions in such court on appeal from the municipal court of Kansas City for violations of city ordinances relating to drunken driving and reckless driving.

The Director of Revenue does not have the authority to revoke a driver's license because of a conviction of violating the city ordinances of Kansas City relating to drunken or reckless driving. The Director of Revenue can suspend, for not to exceed one year, the driver's license of a person convicted of violating city ordinances of Kansas City relating to drunken driving or reckless driving, when five such convictions have been obtained against such person within the period of one year.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, Mr. C. B. Burns, Jr.

Very truly yours,

CBB/ld

JOHN M. DALTON
Attorney General