

HIGHWAY PATROLMEN:
ARREST:
MOTOR VEHICLES:

A highway patrolman may arrest without warrant a person who the patrolman, at the direction of the director of revenue, calls upon to surrender his motor vehicle registration and license, if the highway patrolman can determine as of that time that such person is willfully failing to turn in to the director of revenue his motor vehicle registration and license.



November 29, 1954

Colonel Hugh H. Waggoner
Superintendent
Missouri State Highway Patrol
Jefferson City, Missouri

Dear Sir:

Your recent request for an official opinion reads as follows:

"Section 303.330, R. S. Mo.-1945, authorizes the Director of Revenue of Missouri to direct the Missouri State Highway Patrol or any peace officer to secure possession of and return to the Director, the license and/or registration of any person who, after being suspended under the Safety Responsibility Law, shall fail to immediately return his license and/or registration to the Director upon request.

"The Director of Revenue uses a department form known as a 'Police Demand Order' to direct the Patrol and other police agencies to pick licenses up under this Section. A copy of this form is attached.

"We would appreciate an official opinion as to whether or not a member of the Patrol who is attempting to serve a 'Police Demand Order' has the authority to arrest, without warrant, persons who refuse to surrender their license and/or registrations.

"We will welcome an early reply as we would like to discuss this matter at a retraining school for the Department which will begin September 13."

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Section 303.330 MoRS Cum. Supp. 1953 (of the laws of 1953 and not 1945, as stated in your letter) reads:

"Any person whose license or registration shall have been suspended as herein provided, or whose policy of insurance or bond, when required under this chapter, shall have been canceled or terminated, or who shall neglect to furnish other proof upon request of the director shall immediately return his license and registration to the director. If any person shall fail to return to the director the license or registration as provided herein, the director shall forthwith direct the Missouri state highway patrol or any peace officer to secure possession thereof and return the same to the director."

Paragraph 4 of Section 303.370, MoRS Cum. Supp. 1953, reads:

"Any person willfully failing to return his license or registration as required in section 303.330 shall be fined not more than five hundred dollars or imprisoned not to exceed thirty days, or both."

From the above we see that it is the law of this state that when a situation arises such as is set forth in Section 303.330, supra, the person involved shall "immediately return his license and registration to the director." A failure to do this is, by paragraph 4 of Section 303.370, supra, made a misdemeanor. We also note that by Section 303.330, supra, in a situation where a person who should have returned to the Director of Revenue his license and registration fails to do so, the director shall direct the Highway Patrol (or any peace officer) to secure possession of the registration and license, and return them to him (the director).

We now direct attention to Section 43.190 RSMo 1949, which reads:

"The members of the patrol, with the exception of the director of radio and radio personnel, are hereby declared to be officers of the state of Missouri and shall be so deemed and taken in all courts having jurisdiction of offenses against the laws of this state. The

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members of the patrol shall have the powers now or hereafter vested by law in peace officers except the serving or execution of civil process. The members of the patrol shall have authority to arrest without writ, rule, order or process any person detected by him in the act of violating any law of this state. When a member of the patrol is in pursuit of a violator or suspected violator and is unable to arrest such violator or suspected violator within the limits of the district or territory over which the jurisdiction of such member of the patrol extends, he shall be and is hereby authorized to continue in pursuit of such violator or suspected violator into whatever part of this state may be reasonably necessary to effect the apprehension and arrest of the same and to arrest such violator or suspected violator whenever he may be overtaken."

The above gives in general terms to members of the Highway Patrol all of the powers of arrest which are possessed by peace officers. In more specific terms it gives to members of the Highway Patrol powers to arrest, without a warrant, any person "detected" by them in the act of violating "any" law of this state. This would certainly include the violation of a law, the violation of which was a misdemeanor, which, as we have noted above, is the punishment fixed for the violation of Section 303.330, supra.

We now direct attention to the case of State v. Collins, 172 S. W. (2d) 284, at l. c. 291, the court, in its opinion, stated:

"Except for situations where the right is specially given by statute, a peace officer has no authority, without a warrant, to arrest a person charged with the commission of a misdemeanor unless the offense was committed in the officer's presence. Greaves v. Kansas City Junior Orpheum Co., 229 Mo. App. 663, 80 S. W. (2d) 228; Wehmeyer v. Mulvihill, 150 Mo. App. 197, 130 S. W. 681. The offense of which relator was suspected was of course a misdemeanor - the crime of petit larceny growing out of the theft of

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a grease gun shown to have been worth from twelve to fifteen dollars. Sec. 4469, R.S. Mo. 1939, Mo. R.S.A. Sec. 4469. Moreover, the offense, if any, was not committed in Collins' presence so as to have dispensed with the necessity that he have a warrant as his authority for making the arrest."

We believe that the above represents the law.

Upon the basis of the above, it is our opinion that, if when a highway patrolman, at the direction of the director of revenue, calls upon a person to surrender his motor vehicle registration and license, the highway patrolman may arrest such person, without warrant, if he, the patrolman, can determine that such person is willfully failing as of that time to turn in to the director of revenue his registration and license.

CONCLUSION

It is the opinion of this department that a highway patrolman may arrest, without warrant, a person who the patrolman, at the direction of the director of revenue, calls upon to surrender his motor vehicle registration and license, if the highway patrolman can determine as of that time that such person is willfully failing to turn in to the director of revenue his motor vehicle registration and license.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, Hugh P. Williamson.

Very truly yours,

JOHN M. DALTON
Attorney General

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