

Opinion 166 answered
by letter

September 1, 1961



Mr. M. E. Morris, Director,
Department of Revenue,
Jefferson Building,
Jefferson City, Missouri

Dear Mr. Morris:

On April 26, 1961 you wrote to this office requesting an official opinion. After several conversations between our offices it has developed that the question for consideration is whether a surety bond which has been deposited with the Motor Vehicle Safety Responsibility Unit as security because of a past accident, may be cancelled by the surety company before the conditions in Section 303.060, RSMo 1959, have been met. This letter should fully answer your inquiry.

In Chapter 303, RSMo 1959, security is required to be deposited under the following set of conditions: If a motor vehicle operator is involved in an accident within this state in which any person is killed or injured, or in which damage to property of any one person in excess of \$100 is sustained, then the operator is required to file with the Department of Revenue a report of this accident. This report is to be filed within ten days of the accident (Section 303.040). Within twenty days after the receipt of the report, the Director of Revenue shall determine the amount of security needed to be filed by the motor vehicle operator or owner to satisfy any judgment for damages resulting from such accident. The Director shall suspend the license of such operator and all registrations of the owner of such motor vehicle within forty-five days of the receipt of the report unless such operator or owner, or both, shall deposit security in the sum previously determined by the Director.

The deposit of security requirements is qualified by excluding those operators or owners who had in effect at the time of such accident an automobile liability policy which sufficiently covered the operation of the motor vehicle or the liability of the operator. Also excluded from the security deposit requirements are those operators and owners covered by other forms

Mr. M. E. Morris

of liability insurance or bonds, and also any person qualifying as a self-insurer (Section 303.030). Other exclusions from the security deposit requirements are found in Section 303.070.

Assuming that security is required then Sections 303.050, 303.051 and 303.060 are applicable.

In reading these sections and other related sections within Chapter 303 it is the opinion of this office that the rationale behind this security deposit requirement is to guarantee (for a limited amount) the payment of a judgment rendered against a person on whose behalf the deposit was made for damages arising out of the accident in question. The exclusions from the requirements are fully justified because they either evidence the guarantee of payment upon a judgment or else they patently show that the operator or owner is not liable or, if so, has been released from such liability.

With this basic concept in mind this office is of the belief that surety bonds once given to satisfy security requirements should not be cancelled unless all of those conditions found within Section 303.060, *supra*, have been fully satisfied.

Throughout this entire chapter the Director of Revenue is given a great deal of discretion in determining the amount of security required and the form in which it is to be given. Thus he would be justified in conditioning the approval of all surety bonds given as security in the situation described above. This condition for approval can properly limit the cancellation only after the provisions of Section 303.060 have been fulfilled.

In your letter you quote at length Section 303.230, RSMo 1959. I draw your attention to the fact that this section refers to the furnishing of security bonds as proof of financial responsibility. This is of a different nature than the security requirements discussed above. As defined in this chapter proof of financial responsibility means only the proof to respond to damages for liability on account of accidents subsequent to the date of said proof. Thus this section is not applicable to the question under discussion.

I hope this letter will be of assistance to you in the proper administration of the Motor Vehicle Safety Responsibility Law.

Very truly yours,

THOMAS F. EAGLETON
Attorney General

EGB:MW