

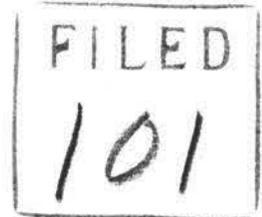
DRIVER'S LICENSE:
LICENSES:
REVOCATION OF DRIVER'S LICENSE:

The enforcement of a suspension or revocation of a person's driving privilege made by the Director of Revenue under Chapter 302, RSMo 1963 Cum. Supp. is not automatically stayed by an appeal thereof. However, if the reviewing court grants a stay of the Director's order, the enforcement thereof is stayed during the appeal and resumes when a final decision is rendered, if the court, after review, upholds the action of the Director of Revenue.

OPINION NO. 101

April 6, 1965

Mr. Thomas A. David, Director
Department of Revenue
Operator and Chauffeur License
P. O. Box 200
Jefferson City, Missouri 65102



Dear Mr. David:

This is in answer to your request for an opinion of this office concerning the beginning date of a suspension or revocation of a person's driving privilege in cases where the suspension or revocation has been appealed and the court, after review, upholds the action of the Director of Revenue.

Section 302.304, RSMo Cum. Supp. 1963, provides for the suspension and revocation of driving privileges upon the accumulation of an excess number of points under our Missouri Point System. Points are assessed after a conviction or forfeiture of bail, Section 302.302, RSMo Cum. Supp. 1963. Section 302.225, RSMo Cum. Supp. 1963, requires courts having jurisdiction over offenses for which points are assessed to forward to the Director of Revenue a record of the convictions of persons in the court within ten days thereafter. After the assessment of a sufficient number of points, the Director sends out a notice of suspension or revocation, as the case may be. The beginning date of such suspension or revocation is specified in the notice. It is our understanding that this beginning date is usually set approximately seven days after the notice is sent.

Mr. Thomas A. David

The revocation or suspension should begin on the date specified in the notice even though the case is appealed, unless a court order is made to the contrary. The fact that an appeal is made does not automatically stay the suspension or revocation order during the course of such appeal. However, one taking an appeal may and usually does ask the court to stay enforcement of the Director's order pending a final decision. See Section 536.120, RSMo 1959 which provides that the reviewing court has the power to stay the enforcement of the administrative order being appealed. If no stay is granted by the court, the Director's order remains in effect even though an appeal has been taken, and the necessary steps should be taken to secure the miscreant's drivers license.

If a stay is granted, the enforcement of the Director's order should be suspended according to the terms of the order. Ordinarily the Director's order is tolled on the date of the stay order and resumes when a final decision is rendered, presuming, of course, that the Director's order has been upheld. If the court stays the Director's order, prior to its specified beginning date, the suspension or revocation will begin after a final decision by the court on review upholding the action of the Director. If a stay is granted after the specified beginning date, the remainder of the suspension will be served after a final decision upholding the Director's order. If a suspension for a sixty day period, for example, is stayed ten days after the beginning date set out in the notice, the suspension is continued for fifty days after a favorable final decision.

CONCLUSION

The enforcement of a suspension or revocation of a person's driving privilege made by the Director of Revenue under Chapter 302, RSMo Cum. Supp. 1963, is not automatically stayed by an appeal thereof. However, if the reviewing court grants a stay of the Director's order, the enforcement thereof is stayed during the appeal and resumes when a final decision is rendered, assuming the court, after review, upholds the action of the Director of Revenue.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, John H. Denman.

Very truly yours,


NORMAN H. ANDERSON
Attorney General

JHD:bf