

AUTGMOBILES: Driving without a valid chauffeurs' or
DRIVERS LICENSES: operators' license constitutes a "moving
LICENSES: violation" as that term is used in Sec-
MOTOR VEHICLES: tion 302.302-1(1), RSMo. Supp. 1965,
POINT SYSTEM: and a conviction thereof requires an
REVOCATION OF LICENSE: assessment of two points.

OPINION NO. 98 (1966)
Opinion No. 474 (1965)

March 24, 1966



Honorable Robert P. Warden
State Representative
Jasper County - 2nd District
415 Moffet
Joplin, Missouri

Dear Representative Warden:

This is in answer to your request for an opinion of this office as to whether points may be assessed against an individual for being convicted of driving without a valid drivers license because either his license had expired or no license was ever issued.

The assessment of points for conviction of traffic violations is governed by Section 302.302, RSMo. Supp. 1965, the first paragraph of which provides:

"1. The director of revenue shall put into effect a point system for the suspension and revocation of chauffeurs' and operators' licenses. Points shall be assessed only after a conviction or forfeiture of collateral. The initial point value is as follows: * * *"

Thereafter, several violations are listed together with the points to be assessed for each specified offense.

Since driving without a valid drivers license is not specified in any of these subparagraphs, this offense could be assessable only under subparagraph (1), of Section 302.302-1, which reads as follows:

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"(1) Any moving violation of a state law or county or municipal traffic ordinance not listed in this section, other than a violation of vehicle equipment provisions. . . . 2 points (except any violation of a municipal stop sign ordinance where no accident is involved, 1 point)."

A "moving violation" is defined in Section 302.010(10), RSMo. Supp. 1965, as follows:

"'Moving violation', that character of traffic violation where at the time of violation the motor vehicle involved is in motion, except that the term does not include the driving of a motor vehicle without a valid motor vehicle registration license, or violations of sections 304.170 to 304.240, RSMo., inclusive, relating to sizes and weights of vehicles;"

To determine whether the term "moving violation" includes the offense of driving without a valid drivers license, we must consider the primary rule of statutory construction; to ascertain the intent of the legislature and as far as possible to give effect to the intention expressed. Household Finance Corp. vs. Robertson, Mo. Banc., 364 S.W.2d 595; Lawyers' Association of St. Louis v. City of St. Louis, Mo.App., 294 S.W.2d 676.

It is unlawful for any person to drive a motor vehicle upon the highways of this State without a valid chauffeurs' or operators' license. Section 302.020, RSMo. Any person convicted of this offense shall be deemed guilty of a misdemeanor. Section 302.340, RSMo. Before an individual is issued a license he is required to pass both an oral and written examination which is also required of an individual who has failed to renew his license. Section 302.173, RSMo. Supp. 1965. A visual examination is also required of one seeking to renew his license. Section 302.175, RSMo. Supp. 1965. The reason for requiring drivers to be licensed and to take the prerequisite tests is to promote safety on the public highways. Department of Penal Institutions vs. Wymore, Mo.Banc. 1947, 165 S.W.2d 618. Although the possession of a valid drivers license does not insure the skill of a driver, the requirements for obtaining a license do allow the State to deny the privilege of driving to individuals it knows to be unqualified.

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The purpose of suspending or revoking the license of those who have been convicted of serious or numerous traffic violations is also to protect the public rather than to punish the offender. *Durfee vs. Ress*, Neb., 1957, 81 N.W.2d 148. The so-called "point system" is merely a legislative evaluation which sets the standard by which a negligent or hazardous driver may be determined. *Jones vs. Kirkman*, Fla. 1962, 138 So.2d 513; *Sturgill vs. Beard*, Ky. 1957, 303 S.W.2d 908. The fact that a person has accumulated an excess number of points indicates he is a negligent driver and more likely than others to become involved in an accident in which others would be injured.

As driving without a valid drivers license is a violation of State law which, by definition, must occur when the motor vehicle is in motion, the offense logically should be considered a moving violation within the meaning of Sections 302.010(10) and 302.302-1(1), RSMo. Supp. 1965. Such a construction is in harmony with the reason for requiring drivers to have a valid drivers license and for suspending or revoking the license of unsafe or unqualified drivers.

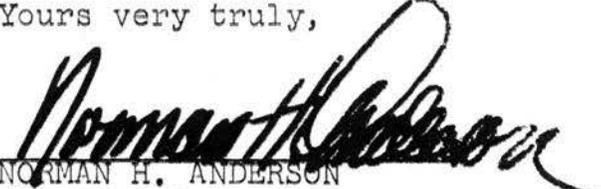
The only basis upon which we could conclude that points should not be assessed for such a conviction would be that the director has no authority to assess points against a none istent license. If this conclusion were valid we must also conclude that the director could not assess points under any of the provisions of Section 302.302, RSMo. Supp. 1965, against an individual who did not possess a valid license at the time of his conviction. This would prevent the State from keeping a person from taking an examination and obtaining a valid license even though he has been convicted of a number of traffic violations which would justify a suspension or revocation of his license as a hazardous driver.

CONCLUSION

It is therefore the opinion of this office, that driving without a valid chauffeurs' or operators' license constitutes a "moving violation" as that term is used in Section 302.302-1(1), RSMo. Supp. 1965, and a conviction thereof requires an assessment of two points.

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

Yours very truly,


NORMAN H. ANDERSON
Attorney General