

OPINION NO. 364
Answered by letter
(Denman)

July 12, 1966



Honorable Gerald Kiser
Prosecuting Attorney
Clay County
Liberty, Missouri 64068

Dear Mr. Kiser:

This is in answer to your request for an opinion of this office regarding an interpretation of subparagraph (5) of paragraph 3 of Section 302.309, RSMo Cum. Supp., when considered in conjunction with Section 302.060, RSMo Cum. Supp.

Paragraphs (1) and (2) of subsection 3 of Section 302.309 provide as follows:

"(1) All circuit courts and magistrate courts located in counties which are a part of a multi-county judicial circuit shall have jurisdiction to hear applications for hardship driving privileges.

(2) When any court of record having jurisdiction finds that a chauffeur or operator is required to operate a motor vehicle in connection with his business, occupation or employment, the court may grant such limited driving privilege as the circumstances of the case justify if the court also finds undue hardship on the individual in earning a livelihood, and while so operating a motor vehicle within the restrictions and limitations of the court order the driver shall not be guilty of operating a motor vehicle without a valid driver's license."

Paragraph (5) provides:

"This subsection does not apply to any person whose license has been suspended or revoked:

(a) For any reason which would have disqualified him or made him ineligible for a license under Section 302.060, * * * "

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Section 302.060 provides that:

"The director shall not issue any license hereunder:

* * * * *

(3) To any person, either as a chauffeur or as an operator, whose license as a chauffeur or as an operator has been suspended, during such suspension, or to any person, as a chauffeur or as an operator, whose license has been revoked, until the expiration of one year after such license was revoked; * * * "

Your question is whether a person is prohibited from receiving limited driving privileges whose license has been suspended or revoked under the provisions of Section 302.060 (3).

The primary rule of statutory construction is first to seek the intention of the legislature and, if possible, to effectuate that intention. *Foremost Daries, Inc. v. Thomason, Mo. Banc.*, 384 SW 2d 651; *Household Finance Corp. v. Robertson, Mo. Supp.*, 364 SW 2d 595. In construing statutes which appear to be in conflict such statutes must be harmonized, if possible, with the general legislative purpose and give force and effect to each. *State v. Crouch*, 316 SW 2d 553; *State ex rel. McKittrick v. Carolene Products Co.*, 346 Mo. 1049, 144 SW 2d 153. To construe such statutes it is helpful to examine the legislative history thereof.

Section 302.060 was first enacted in 1937. Although it was amended in 1951 and again in 1961, the language of subparagraph (3) has remained unchanged. At the time of its original enactment and amendment in 1955, there was no statutory authorization allowing the courts to grant limited driving privileges to those whose licenses had been suspended or revoked. In view of this fact, the only reason for providing that a license should not be issued to one under such circumstances was to prevent the director from issuing a new or an original license to one whose license has been suspended or revoked. This would prevent one whose license was suspended or revoked from merely making an application and receiving another license under those statutes providing for the original issue. If Section 302.060 (3) is considered in this context, there is no conflict with Section 302.309-3 (5) for the reason that 302.060 (3) still would prevent one whose license was suspended or revoked from securing a new license, but would not prevent him from applying for limited driving privileges.

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As we stated earlier, at the time Section 302.060 was enacted there were no provisions authorizing the grant of limited driving privileges. By the enactment of Section 302.309 in 1961 it must be presumed that the legislature intended to enact meaningful legislation to change the existing law. State ex rel. M. J. Gorzik Corp. v. Mosman, 315 SW 2d 209. This purpose could only have been to change the law; to lessen the rigid requirements of license suspension and revocation by authorizing the courts to grant limited driving privileges when deemed advisable. If Sections 302.060 and 302.309 were literally construed to prevent persons whose license had been revoked or suspended from seeking limited driving privileges, enactment of Section 302.309 would be meaningless. To such a construction we cannot subscribe. See City of Joplin v. Joplin Water Works Company, Mo. Supp., 386 SW 2d 369; Wright v. J. A. Tobin Construction Co., Mo. App., 365 SW 2d 742; State ex rel. American Mfg. Co. v. Koeln, 278 Mo. 28, 211 SW 31.

In our opinion, the provisions of Section 302.309, RSMo Cum. Supp., when considered together with the other provisions of Chapter 302, clearly show that the legislative intent was to allow the courts to grant limited driving privileges to those whose license has been suspended or revoked.

Very truly yours,

NORMAN H. ANDERSON
Attorney General

JHD/jlf