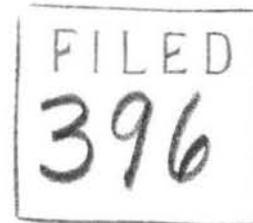


SAFETY RESPONSIBILITY: The Director of Revenue, under the pro-
DIRECTOR OF REVENUE: visions of Sections 303.090 and 303.100,
MOTOR VEHICLES: RSMo, shall suspend the license and regis-
INSURANCE: tration of a person who had a judgment
rendered against him resulting from an
automobile accident, even though this person had a proper liability
insurance policy of the requisite amount at the time of the accident
but was unable to satisfy the subsequent judgment resulting therefrom
because of the failure of the insurance company to meet its obligations.

September 22, 1966

OPINION NO. 396

Mrs. Alice Moore
Assistant Supervisor
Safety Responsibility Unit
Jefferson Building
Jefferson City, Missouri



Dear Mrs. Moore:

This is in answer to your request for an official opinion of this office concerning the question whether the Director of Revenue should suspend the drivers license and take the automobile license plates of an individual who at the time he was in an automobile accident possessed a liability insurance policy adequate in amount under the state statutes, issued by an insurance company which became unable to fulfill its contractual obligations of payment of any judgment against the insured when a judgment was rendered against him as a result of such accident which judgment he is unable to pay.

The answer to your question involves the construction and application of Chapter 303, RSMo, entitled "The Motor Vehicle Safety Responsibility Law". As the title indicates, the provisions of this act are indicative of the public policy of this state to assure financial remuneration to the extent and under the conditions therein provided for damages sustained through the negligent operation of motor vehicles upon the highways of this state. *Winterton v. Van Zandt*, Mo. Sup., 351 S.W.2d 696.

The first portion of the Act, Section 303.030, RSMo Cum. Supp., provides as follows:

"1. If within twenty days after the receipt of a report of a motor vehicle accident within this state which has resulted in bodily injury or death, or damage to the property of any one person in excess of one hundred dollars, the director does not have on file evidence satisfactory to him that the person who would otherwise be required to file security under subsection 2 of this section has been released from liability, or has been finally adjudicated not to be liable, or has executed a duly acknowledged written agreement providing for the payment of an agreed amount in installments with respect to all claims for injuries or damages resulting from the accident, the director shall determine the amount of security which shall be sufficient in his judgment to satisfy any judgment for damages resulting from such accident as may be recovered against each operator or owner.

"2. The director shall, within forty-five days after the receipt of such report of a motor vehicle accident, suspend the license of each operator, and all registrations of each owner of a motor vehicle, in any manner involved in such accident, and if such operator is a nonresident the privilege of operating a motor vehicle within this state, and if such owner is a nonresident the privilege of the use within this state of any motor vehicle owned by him, unless such operator or owner or both shall deposit security in the sum so determined by the director; provided notice of such suspension shall be sent by the director to such operator and owner not less than ten days prior to the effective date of such suspension and shall state the amount required as security.

* * * * *

"4. This section shall not apply under the conditions stated in section 303.070, nor:

(1) To such operator or owner if such owner had in effect at the time of such accident an automobile liability policy with respect to the motor vehicle involved in such accident;

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(2) To such operator, if not the owner of such motor vehicle, if there was in effect at the time of such accident an automobile liability policy or bond with respect to his operation of motor vehicles not owned by him;

(3) To such operator or owner if the liability of such operator or owner for damages resulting from such accident is, in the judgment of the director, covered by any other form of liability insurance policy or bond; nor

(4) To any person qualifying as a self-insurer under section 303.220, nor to any person operating a motor vehicle for such self-insurer."

Paragraph 5 sets out the necessary qualifications of the insurance company and the amount of insurance necessary to be acceptable as an automobile liability policy under the Act.

In the situation giving rise to your question, the insured was involved in an accident on May 11, 1964. At that time he had an insurance policy from a St. Louis insurance company which carried liability coverages of \$25,000/\$50,000/\$10,000 which was in effect from February 14, 1964, until August 14, 1964. Suit was filed against the insured, and the insurance company thereafter became unable to fulfill its contractual obligations to the insured who was obliged to defend the suit himself. Judgment was rendered against the insured in the amount of \$551.51 which to date has not been paid. Your question is whether the fact that the insured had a proper liability policy in conformance with the statutory requirements at the time of the accident satisfies the Safety Responsibility requirements of the Missouri Law.

Inasmuch as the security requirements of Section 303.030 relate to the status of the parties before any judgment is rendered and paragraph 4 thereof states that these provisions do not apply to anyone who has an acceptable liability policy it is our opinion that the Director of Revenue could not validly suspend the license or registrations of the insured by reason of Section 303.030 inasmuch as he had a valid liability insurance policy at the time of the accident and thus was excepted from its provisions.

However, in the matter in question, a judgment subsequently was rendered against the one-time-insured in the amount of \$551.51 which is still unsatisfied. The judgment was rendered as a result of the judicially determined negligent operation of his automobile which resulted in damage to the automobile of another.

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The legislature has provided in Sections 303.090 and 303.100, RSMo, as follows:

303.090

"1. Whenever any person fails within sixty days to satisfy any final judgment in amounts and upon a cause of action as herein stated, it shall be the duty of the clerk of the court, or of the judge of a court which has no clerk, in which any such judgment is rendered within this state, to forward to the director immediately after the expiration of said sixty days, a certified copy of such judgment."

* * * *

303.100

"1. The director, upon the receipt of a certified copy of a judgment, shall forthwith suspend the license and registration and any nonresident's operating privilege of any person against whom such judgment was rendered, except as hereinafter otherwise provided in this section and in section 303.130."

* * * *

As we have stated, the provisions of Section 303.030 are concerned with the requirements of all those involved in an accident prior to the time any party involved is adjudged to be liable. The depositing of security does not depend upon fault but is required of all parties to assure that any of them, if subsequently adjudged negligent, are able to compensate those injured by such negligence.

In our opinion the provisions of Section 303.030 and the exception provided in paragraph 4 thereof do not govern the requirements of Sections 303.090 and 303.100. The former relates to an unascertained liability of an amount not actually determined by judgment, while the latter relates to a definite liability set by a final judgment against that person or persons found to be accountable for the injuries caused by the accident.

The use of the language "This section shall not apply * * *" in paragraph 4 of Section 303.030 is indicative of the intent of the legislature that having a liability policy in effect at the time of the accident only exempts the owner or operator from the provi-

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sions of Section 303.030 and not the remainder of the Act and specifically not for the provisions of Section 303.100.

This was the holding of the Court of Civil Appeals of Texas in Department of Public Safety v. Lozano, 323 S.W.2d 316, when this same question was raised. In construing the Texas act which in principle is quite similar to the Missouri law the court, quoting from Jones v. Harnett, 247 App. Div. 7, 286 N.Y.S. 220, 223, (which also dealt with a similar act and reached the same conclusion) said, l.c. 319:

"We are of the opinion that these sections do not relate to the same subject-matter, and that each has an entirely different purpose."

'The title of the section (94-b), "Failure to satisfy judgments; revocation of licenses and security," indicates its purpose. No owner of a motor vehicle, public or private, is excepted. The person who possesses an operator's license is placed in exactly the same category as the one who possesses a chauffeur's license. No exception is made in the case of an owner who has complied with the provisions of section 17 of the Vehicle and Traffic Law. Of course, one readily can understand the hardship the owner of a taxicab or other vehicle covered by the statute may suffer by reason of the failure of an insurance company to meet its obligations, but, on the other hand, his position is no different from that of a private owner who voluntarily and without any legal requirement procures insurance in a company which has been forced into liquidation. The Purpose of the Legislature in enacting section 94-b was to give some aid to unfortunate people who frequently are maimed and disabled as the result of the negligent and careless operation of a motor vehicle. The provisions of section 94-b are mandatory and must be given full force and effect.'"

This also was the holding of the Court in Sheehan v. Division of Motor Vehicles of the State of California, 35 P.2d 359, wherein the

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Court had before it the same fact situation and a very similar law. See also 108 A.L.R. 1162, annotations.

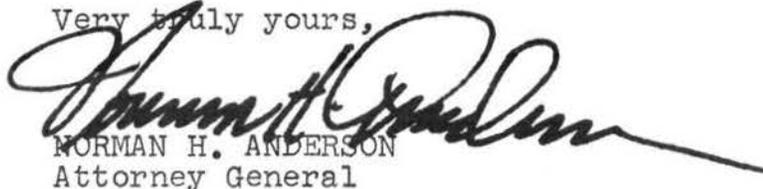
While we recognize that an operator or owner may have his license or registrations suspended because, through no fault of his, his insurance company has defaulted upon its obligation to satisfy a judgment against him, it is our opinion that this hardship must be subordinated to the general purpose of the law to require the privilege of operating an automobile upon the highways of this state be withdrawn from those who are not financially able to compensate others who have suffered injuries to their persons or property as a result of his negligence.

CONCLUSION

The Director of Revenue, under the provisions of Sections 303.090 and 303.100, RSMo, shall suspend the license and registration of a person who had a judgment rendered against him resulting from an automobile accident, even though this person had a proper liability insurance policy of the requisite amount at the time of the accident but was unable to satisfy the subsequent judgment resulting therefrom because of the failure of the insurance company to meet its obligations.

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

Very truly yours,



NORMAN H. ANDERSON
Attorney General