

SAFETY RESPONSIBILITY UNIT:
MOTOR VEHICLES:
ACCIDENT REPORTS:

The operator of a motor vehicle on the public highways who loses control and goes off the highway and causes damage to another's property in excess of \$100 must file a report under Section 303.040, RSMo 1959.

OPINION NO. 170

April 24, 1969



Honorable Gene Thompson
Prosecuting Attorney
Nodaway County
Court House
Maryville, Missouri 64468

Dear Mr. Thompson:

This is in answer to your request for an opinion of this office concerning the question whether the operator of a motor vehicle which runs off a public highway and causes death, injuries, or property damage on private property is required to file proof of financial responsibility under Chapter 303, RSMo. The facts of the accident are that the driver of the motor vehicle in question was violating certain traffic regulations on the public highways and when pursued by police officers the driver attempted to evade arrest and in doing so lost control of the motor vehicle, and said vehicle left the public highway, entered private property, and caused in excess of \$100 damage to another's property.

Section 303.040, RSMo 1959, requires the filing of a report with the Director of Revenue by persons involved in a motor vehicle accident. This section reads in part as follows:

"The operator of every motor vehicle which is in any manner involved in an accident within this state, upon the streets or highways thereof, in which any person is killed or injured or in which damage to property of any one person, including himself, in excess of one hundred dollars is sustained, shall within ten days after such accident report the matter in writing to the director.* * *"

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After receipt of reports filed pursuant to Section 303.040 the Director of Revenue is required by Section 303.030, RSMo Supp. 1967, to take certain action within certain time limits based upon the information filed in the reports.

Therefore, the answer to your question depends on whether a report must be filed pursuant to Section 303.040. Such answer turns on whether the accident occurred upon the streets or highways of Missouri.

Street or highway is defined in Section 303.020(13), RSMo Supp. 1967, as:

"* * *the entire width between property lines of every way or place of whatever nature when any part thereof is open to the use of the public, as a matter of right, for purposes of vehicular traffic."

The Supreme Court of Missouri in considering various provisions of the Motor Vehicle Safety Responsibility Law said in *City of St. Louis v. Carpenter, Mo.*, 341 S.W.2d 786, 788, 87 A.L.R.2d 1219:

"[1] Statutes enacted for the protection of life and property, or which introduce some new regulation conducive to the public good, are considered remedial in nature and are generally given a liberal construction. . . .

"[2] The purpose of The Motor Vehicle Safety Responsibility Law is to protect the public from injury or damage by the operation of motor vehicles upon the public highways and to that extent it is remedial. . . . The Law necessarily provides for sanctions as a means of its enforcement.

"[3,4] Where a statute is both remedial and penal, remedial in one part while penal in another, it should be considered a remedial statute when enforcement of the remedy is sought and penal when enforcement of the penalty is sought. . . ."

We believe that the clear intent of the statute is to insure that damages caused by reckless and negligent operation of automobiles be recovered and persons causing damage be required to show financial responsibility before they are allowed to continue

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driving and that, therefore, it should be liberally construed in determining whether an accident occurs on the highway when the car is negligently driven so as to go off the highway and cause damage on private property.

The term accident has been defined many times under the Workmen's Compensation Law. The Court in Bauer v. Independent Stave Company, Mo.App., 417 S.W.2d 693, 696 said:

"* * *To sustain this burden, the employee must not only show he suffered an injury, but additionally must show the injury resulted from an accident arising out of and in the course of his employment within the meaning of the Act. * * * An 'accident' under the law is 'an unexpected or unforeseen event happening suddenly and violently.' It is not the 'injury' itself, but the cause of the injury. The injury is the result produced by the accident and the cause of the injury must be accidental to be compensable.* * *"

The word accident as used in automobile liability policies requiring notice of any accident to be given to the insurer as a condition precedent to liability means an untoward or unforeseen occurrence in the operation of the automobile which results in injury to the person or property of another. Ohio Casualty Ins. Co. v. Marr, 10th C.C.A., 98 F.2d 973, 975. Such meaning to the term accident does not exclude an injury caused by negligence. American Indemnity Co. v. Jamison, Tex. Civil App., 62 S.W.2d 197, 198.

From the facts presented to us it appears clear that the damage occurred off the public highway but that the negligence or cause of the damage occurred on the public highway. See Winford v. Barsi, D.C.W.D.Mo., 92 F.Supp. 110; Rogles v. United Rys. Co., Mo., 232 S.W. 93; Dodson v. Maddox, et al, 359 Mo. 742, 223 S.W.2d 434, and Hay v. Ham, Mo.App., 364 S.W.2d 118.

Therefore, it is our opinion that under Section 304.040 there was an accident upon the highways of Missouri in which there was property damage to another.

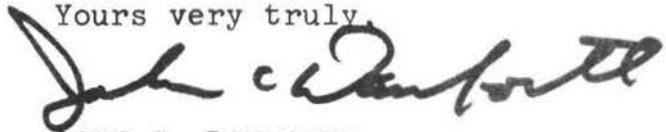
CONCLUSION

It is the opinion of this office that the operator of a motor vehicle on the public highways who loses control and goes off the highway and causes damage to another's property in excess of \$100 must file a report under Section 303.040, RSMo 1959.

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The foregoing opinion, which I hereby approve, was prepared by my Assistant, Walter W. Nowotny, Jr.

Yours very truly,

A handwritten signature in cursive script, reading "John C. Danforth". The signature is written in black ink and is positioned above the typed name.

JOHN C. DANFORTH
Attorney General