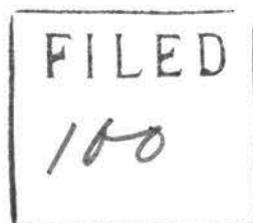


September 27, 1972

OPINION LETTER NO. 100
Answer by letter-Wieler

Honorable Robert H. Martin
State Representative
306 O'Brien
Lee's Summit, Missouri 64063



Dear Representative Martin:

This is in response to your request for an opinion as to the authority of the director of revenue to suspend the driver's license of a resident of this state upon receipt of a notice of revocation or suspension of his driving privileges in the state of Kansas as a result of an accident there without proper liability insurance coverage.

Section 303.080, sub. 3, RSMo 1969, requires the director of revenue to suspend the license of a resident upon receipt of a notice from another state that the resident's operating privileges in that state have been suspended or revoked as a result of an accident where the circumstances surrounding the accident are such that the director would be required to suspend a nonresident's operating privileges if he had been involved in a similar accident in this state. The director is authorized by Section 303.030, RSMo Supp. 1971, to suspend the operating privileges of a nonresident where it is shown that the nonresident has been involved in an accident, that he has not complied with the provisions of the Missouri Safety Responsibility Act, and that he does not come within any of the exceptions of the law.

However, as a result of the decision of the United States Supreme Court in *Bell v. Burson*, 402 U.S. 535, 29 L.Ed.2d 90, 91 S.Ct. 1586 (1971), the driving privileges of a person involved in an automobile accident without proper liability insurance cannot be suspended, absent a court judgment of liability or an admission of liability, until such time as a hearing has been held to determine whether or not there was reasonable cause to believe that the person was at fault in the accident. As pointed out by the Supreme

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Court in a later decision, *Jennings v. Mahoney*, 404 U.S. 25, 30 L.Ed.2d 146, 92 S.Ct. 180 (1971), the only purpose of this requirement is to insure that a person whose license is being subjected to suspension is accorded the protection of procedural due process. Where procedural due process is accorded, a suspension or revocation will be allowed to stand.

Since lack of procedural due process is the only impediment to suspension of a resident's driving privilege by the director of revenue following notification of revocation of his driving privileges in the state of Kansas as a result of an automobile accident, it is our opinion that the director is required to suspend his license under the provisions of Section 303.080, sub. 3, RSMo 1969. Section 8-723 of the Annotated Statutes of Kansas allows a person aggrieved by an order of the Kansas Division of Vehicles of the Department of Revenue to seek a hearing before that division for the purpose of testing the order prior to the time it becomes effective. At the time the Missouri driver was notified by Kansas authorities that his privilege to drive in Kansas was being revoked as a result of an accident in Kansas, he was given an opportunity to contest this order before the Division of Vehicles to determine whether or not there was reasonable cause to believe that he was responsible for the damages involved.

Very truly yours,

JOHN C. DANFORTH
Attorney General