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JEFFERSON CITY

August 16, 1976

OPINION LETTER NO. 153

Honorable Jack E. Gant
Missouri Senate, 16th District
Rural Route 2, Box 891
Independence, Missouri 64056

Dear Senator Gant:

This letter is in response to your question asking:

"The question of law is: Whether or not a person who is convicted of driving while his operator's license has been suspended pursuant to Chapter 303 of Missouri Revised Statutes for failing to file a Safety Responsibility Report on an accident should be penalized by being assessed 12 points and having his license revoked under the penalty provision of Chapter 302, Missouri Revised Statutes, in particular section 302.302 or whether such a person should only be subject to the penalties expressly provided in Chapter 303 Missouri Revised Statutes which are on their face designed to apply to Chapter 303; or whether such a person is subject to the penalty of both Chapter 302 and Chapter 303."

In our Opinion No. 213 dated April 29, 1969 to Stubbs, this office held that a person who operates a motor vehicle when his driver's license is suspended under Chapter 303, RSMo, the Safety Responsibility Law, is in violation of Section 303.370, RSMo, and not Section 302.321, RSMo Supp. 1975. A copy of that opinion is enclosed.

Both of these sections, however, fix only the penalty for the respective offenses. As indicated in that opinion, Section

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303.370 fixes the penalty for the operation of a motor vehicle while the operator's license is under suspension for failure to comply with the Safety Responsibility Law. Section 302.321 fixes the criminal penalties for the operation of a motor vehicle while such operator's license has been suspended, cancelled or revoked under the provisions of Chapter 302 or Chapter 564, RSMo. Neither section deals with the point system which is covered separately under the provisions of Section 302.302, RSMo Supp. 1975.

That is, under subsection 1(5) of Section 302.302, twelve points are to be assessed by the Director of Revenue for the operation of a motor vehicle without a license after suspension or revocation and prior to restoration of operating privileges which have been suspended or revoked. Such section requires that the Director of Revenue put the point system into effect and that the points be assessed.

In our view, it makes no difference whether the suspension of the license came about because of a conviction under Section 303.370 or 302.321. Both statutes provide for suspension of operators' licenses. The point system, on the other hand, is not limited to the assessment of points for the operation of a motor vehicle without a license under only certain sections. The section plainly applies to operation without a license after suspension or revocation and prior to restoration of operating privileges which have been suspended or revoked. Clearly, subsection 1(5) of Section 302.302 which assesses the twelve points for a violation is applicable to any operation of a motor vehicle after suspension under the provisions of either of these sections.

Very truly yours,



JOHN C. DANFORTH
Attorney General

Enclosure: Op. No. 213,
4/29/69, Stubbs