

sufficient to cover the obligations of the contract. You have also submitted a certificate of the Controlling Board showing that such board has released funds for this project in accordance with section 1 of House Bill No. 69 of the 90th General Assembly.

In addition, you have submitted a contract bond upon which the New Amsterdam Casualty Company of Baltimore, Maryland, appears as surety, sufficient to cover the amount of the contract.

You have further submitted evidence indicating that plans were properly prepared and approved, notice to bidders was properly given, bids tabulated as required by law, and the contract duly awarded. Also it appears that the laws relating to the status of surety companies and the workmen's compensation have been complied with.

Finding said contract and bond in proper legal form, I have this day noted my approval thereon, and return the same herewith to you, together with all other data submitted in this connection.

Respectfully,

JOHN W. BRICKER,  
*Attorney General.*

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4657.

CRIMINAL LAW—SUSPENSION OF RIGHT TO OPERATE  
MOTOR VEHICLE—WHEN BY TRIAL JUDGE THE REGIS-  
TRAR OF MOTOR VEHICLES MAY NOT PERMIT OPER-  
ATION OF CAR BY CONVICTED PERSON.

*SYLLABUS:*

*Where the trial judge in sentencing a person for the criminal offenses of driving a motor vehicle while intoxicated or under the influence of drugs, or failing to stop after an accident, suspends such convicted person from the right to operate a motor vehicle or revokes a certificate of registration of the owner of such motor vehicle, the Registrar of Motor Vehicles may not permit such convicted party to operate on the roads or highways of this state during such period of suspension or revocation even though such party furnishes proof of ability to respond in damages for future accidents.*

COLUMBUS, OHIO, September 14, 1935.

HON. FRANK WEST, *Registrar, Bureau of Motor Vehicles, Columbus, Ohio.*

DEAR SIR:—I am in receipt of your communication which reads as follows:

"Directing your attention to the Financial Responsibility Law of Ohio I kindly request your opinion on the following question.

Assuming that a court in any case where a plea of guilty or conviction is had on any of the four offenses set forth in Section 1 of said Bill, should make an order taking from the defendant the right and privilege of operating a motor vehicle where such authority exists, and the matter would come before the Registrar of Motor Vehicles as provided in said law, and the defendant should furnish proof of ability to respond in damages, could the Registrar permit said defendant to operate, and by so doing thus contravene the said Court's order."

The pertinent provisions of Amended Senate Bill No. 67, the so-called Drivers' Financial Responsibility Law, are as follows:

Section 6298-1, General Code, provides *inter alia*:

"The registrar of motor vehicles of the state of Ohio is hereby authorized and empowered to and shall, \* \* \* revoke and terminate the right and privilege of operating a motor vehicle upon the public roads and highways of this state, each license, certificate, or permit to operate a motor vehicle, as chauffeur or otherwise, and each certificate of registration for a motor vehicle of or belonging to any person, who has hereafter either

(a) Been convicted of or pleaded guilty to any of the following offenses, to wit

1. Manslaughter, resulting from the operation of a motor vehicle;
2. Operating a motor vehicle while under the influence of intoxicating liquor or narcotic drugs;
3. Failing to stop after an accident, when required so to do by law;
4. A felony in the commission of which a motor vehicle was used; \* \* \*."

Section 6298-3, General Code, provides in part:

"The trial court, which passes sentence or imposes a fine upon a person for any of the offenses set forth in section 1 (G. C. 6298-1) (a) of this act, shall forward immediately to the registrar of motor vehicles, a certified copy or transcript of such conviction or judgment, \* \* \*." (Parenthesis the writer's.)

Section 6298-4, General Code, provides:

“The registrar of motor vehicles \* \* \* shall, upon receipt of such information from a trial court, issue and serve, by registered mail addressed to such person’s last known address, a notice requiring any person who has been convicted \* \* \* to show cause why his right and privilege of operating a motor vehicle upon the public roads and highways of this state, \* \* \* should not be revoked and terminated. Unless, prior to the expiration of thirty (30) days from the date of such notice, such person shows to the satisfaction of the registrar that there is no authority therein to make such an order, *or unless, within said period of time, such persons shall have satisfied the registrar of his ability to respond in damages, as hereinafter set forth, the registrar shall issue an order revoking and terminating such person’s right and privilege of operating a motor vehicle upon the public roads and highways of this state, \* \* \**” (Italics the writer’s.)

The following sections are penal statutes which were enacted prior to the Driver’s Responsibility Law and were not expressly repealed by that law.

Section 12606, General Code, defines the offense of failing to stop after a motor vehicle accident and provides a certain penalty for violation thereof.

Section 12609, General Code, provides:

“Whoever, being a registered chauffeur, violates any provisions of section 12603 to 12606, both inclusive, in addition to the punishment therein provided, *shall be suspended from the right of operating a motor vehicle as a registered chauffeur for thirty days for a second offense, and for a third offense, shall be so suspended for not less than one year and his registration as a chauffeur shall be null and void.*” (Italics the writer’s.)

Section 12628-1, General Code, with reference to driving while intoxicated or under the influence of narcotic drugs, provides in part:

“Whoever operates a motor vehicle of any kind upon any public highway or street while in a state of intoxication, or under the influence of alcohol, narcotics or opiates, upon conviction thereof shall be punished by a fine \* \* \* or imprisonment \* \* \* or both, *and shall be suspended from the right to operate a motor vehicle for not less than six months nor more than one year;* and whoever operates a motor vehicle, upon any public highway or street, during the time he or she has been suspended from such operation, under the pro-

vision of this section, shall be guilty of a misdemeanor and shall be imprisoned \* \* \*.

For a second or subsequent offense of driving while intoxicated, *shall be suspended from the right to operate a motor vehicle for not less than one year nor more than five years. \* \* \*.*" (Italics the writer's.)

Section 12607-1, General Code, provides in part:

"Whenever a person is found guilty under the laws of this state, of operating a motorcycle or motor vehicle contrary to the speed laws, *or of failing to stop the motorcycle or motor vehicle in case of accident to persons or property due to the operation of such motorcycle or motor vehicle,* and to give information required by law, *or of operating a motorcycle or motor vehicle while intoxicated,* the trial court may, *in addition to or independent of all other penalties provided by law, prohibit such person from operating or driving a motorcycle or motor vehicle for a period not exceeding six months* or if such person be the owner of a motorcycle or motor vehicle the court may suspend the certificate of registration of the owner of the motorcycle or motor vehicle for such period as it may determine, not exceeding, however, the period for which such motorcycle or motor vehicle is registered. Upon finding such a person guilty a second time of any of the offenses above referred to the court may, under the same conditions and terms as above set forth, *prohibit such person from operating or driving a motorcycle or motor vehicle for a period not exceeding two years or if such person be the owner of a motorcycle or motor vehicle the court may revoke the certificate of registration of the owner of such motorcycle or motor vehicle, and after such revocation the owner shall not be entitled to register a motorcycle or motor vehicle for a period of not to exceed two years,* as may be fixed by the trial court. \* \* \* Whoever operates any motorcycle or motor vehicle whatever at any time during the period in which the certification of registration is suspended or revoked as the result of his or her offense, or during the period for which the person has been prohibited from operating a motorcycle or motor vehicle under the provisions of this act, shall be fined not more than fifty dollars or imprisoned in the county jail or work house not more than ninety days or both." (Italics the writer's.)

I also call your attention to a recently enacted law with reference to the above criminal statutes. This is Section 13451-8(b), General Code, which provides in part:

“Any court sentencing a person for misdemeanors forbidden by statute, or ordinance, may at the time of sentence remit the same or suspend such sentence in whole or in part, upon such terms as he may impose.”

It is a cardinal rule of statutory construction that if statutes can be read together without contradiction, repugnancy and absurdity or unreasonableness, they should be read together, and all of them will have effect. It is stated in Lewis' *Sutherland Statutory Construction*, 2nd Ed, Vol. I, at page 511:

“If, by fair and reasonable interpretation, acts which are seemingly incompatible or contradictory may be enforced and made to operate in harmony without absurdity, both will be upheld, and the later one will not be regarded as repealing the others by construction or intendment. As laws are presumed to be passed with deliberation and with the full knowledge of all existing ones of the same subject matter, it is but reasonable to conclude that the legislature, in passing a statute, did not intend to interfere with or abrogate any former law relating to the same matter, unless the repugnancy between the two is irreconcilable.”

By virtue of the criminal sections above referred to the trial court, in the offenses of driving while intoxicated or under the influence of drugs, or failing to stop after an accident, may in its sentence suspend or revoke the convicted person's right to drive a motor vehicle on the public roads and highways of this state. If the trial court sees fit to impose the penalty of suspension or revocation, since such criminal statutes are not irreconcilably repugnant to the Driver's Financial Responsibility Law, it is my opinion, in specific answer to your inquiry, that despite the fact that such offender demonstrates to the Registrar of Motor Vehicles his “ability to respond in damages” for any future accidents, still the Registrar of Motor Vehicles has no power to permit the offender to drive on the public roads and highways of this state during the period of suspension or revocation imposed by the sentence of the trial judge. In other words, the Ohio law doubly protects the public, the recent enactment (Sections 6298-1 to 6298-25, both inclusive, General Code), as to financial responsibility for future accidents, and the criminal statutes giving the trial courts the right to absolutely prohibit the offender from driving on the Ohio roads because the propensities of the particular driver may, in the judgment of the trial judge, be inimical to the welfare of the driving and traveling public. In other words, the General Assembly by not repealing these criminal statutes must have thought that future financial responsibility in and of itself, might not be a sufficient safeguard to the lives and limbs of the public from drivers under the influence of alcohol or drugs or that type of

motorist commonly designated as "hit-skip" driver, who, with a consciousness of his guilt, fails to stop after a motor vehicle accident.

Respectfully,

JOHN W. BRICKER,  
*Attorney General.*

4658.

OLD AGE PENSION LAW—"PUBLIC SALE" AS USED IN SECTION 1359-6, G. C., DISCUSSED.

**SYLLABUS:**

*Discussion of "public sale" as used in Section 1359-6, (Old Age Pension Law) of the General Code.*

COLUMBUS, OHIO, September 14, 1935.

HON. H. J. BERRODIN, *Chief, Division of Aid for the Aged, Department of Public Welfare, Columbus, Ohio.*

DEAR SIR:—Your recent request for my opinion reads:

"Will you please give this Division your opinion on the proper procedure to be followed by the Division of Aid for the Aged in selling

first: real estate

second: personal property

which have been transferred or assigned to the Division in trust as a condition precedent to the payment of aid.

Section 6, second paragraph, General Code, 1359, of the Law governing the payment of Aid to the Aged, provides that:

'All property conveyed to the Division in trust, upon the death of the person or persons entitled to use or reside upon such property as above provided, shall be sold by the Division at public sale, and the proceeds applied in the following order: first, the costs of sale; second, all valid taxes and assessments which are a lien upon said property; third, repay to the Treasurer of State all amounts paid under this act to the person who conveyed or transferred the property to the Division, and all such amounts paid to his or her spouse, with interest at four per centum per annum; fourth, all other valid debts in order according to