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MOTOR VEHICLE ON HIGHWAYS—IF PERSON'S RIGHT AND PRIVILEGE OF OPERATING VEHICLE HAS BEEN SUSPENDED, REGISTRAR OF MOTOR VEHICLES WITHOUT AUTHORITY IN LAW TO REVOKE CERTIFICATE OR CERTIFICATES OF REGISTRATION AND NUMBER PLATES ISSUED—SECTION 6298-1 G. C.

SYLLABUS:

If a person's right and privilege of operating a motor vehicle on the highways has been suspended in accordance with Section 6298-1, General Code, the registrar of motor vehicles is without authority in law to revoke the certificate or certificates of registration and number plates issued to such person.

Columbus, Ohio, March 30, 1948

Hon. Edward T. Fogo, Registrar, Bureau of Motor Vehicles
Columbus, Ohio

Dear Sir:

In your communication in which you request my opinion in relation to the construction to be given to Section 6298-22, General Code, you have stated:

“Specific exception has recently been taken to the right of the Registrar to require the return of the certificate of registration or number plate belonging to any person notified to return such certificate and number plate upon their failure to comply with the provisions of the Financial Responsibility Act.

“Does the omission of the words ‘and each certificate of registration for a motor vehicle of or belonging to any person’ from Section 6298-1 of the General Code as amended at a date later than the enactment of the present section 6298-22 of the General Code nullify the provisions of section 6298-22 of the General Code? Does the registrar have the right under the sections as now in force to require the return of the certificate of registration and number plates of an individual as well as the license or permit to operate a motor vehicle?”

Your inquiry, as you have stated, involves a consideration of Section 6298-22, General Code, and its operation and effectiveness with respect to Section 6298-1, General Code.

The “Financial Responsibility Law,” which is the act in question, was enacted by the 91st General Assembly (116 O. L. 218) and became effective August 19, 1935. At that time, Section 6298-1, General Code, read as follows :

“The registrar of motor vehicles of the state of Ohio is hereby authorized and empowered to and shall, in accordance with the provisions of this act, 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 ; or

(b) Failed within thirty (30) days after the entry of the same, to satisfy or stay the execution of any final judgment hereafter rendered against him in any court of record within this state, in an action for wrongful death, personal injury, or damage to property, caused by such person’s individual operation of a motor vehicle.” (Emphasis added.)

Section 6298-22, General Code, enacted at the same time, has never been amended and reads today as follows :

“Each person whose right and privilege of operating a motor vehicle upon the public roads and highways of this state, or whose *license, certificate, or permit* to operate a motor vehicle, or whose *certificate, or certificates, of registration shall have been revoked, as herein provided*, or whose policy of insurance or surety bond shall have been cancelled or terminated, or who shall have failed to furnish proof of ability to respond in damages upon request of the registrar of motor vehicles, shall immediately return to the registrar every *license, certificate, or permit* to operate a motor vehicle, and every *certificate of registration and number plate* issued to him by authority of this state. If any such person shall wilfully fail to return to the registrar any such *license, certificate, permit, certificate of registration, or number plate*, the registrar shall forthwith repossess the same and to that end may call to his assistance any officer having police powers. Any person wilfully violating the provisions of this section shall be guilty of a misdemeanor and shall be fined not less than \$5.00, nor more than \$100.00.” (Emphasis added.)

It will be noted that this latter section by the terms “Each person whose right and privilege of operating a motor vehicle upon the public roads and highways of the state, or whose license, certificate, or permit to operate a motor vehicle, or whose certificate, or certificates, of registration shall have been revoked, *as herein provided*” distinctly correlated with and referred to Section 6298-1. This is evident because the only section which provided for the revocation of “license, certificate, or permit, and each certificate of registration” was Section 6298-1, General Code.

At that time, and until the last amendment to Section 6298-1, the two statutes operated effectively and conclusively. Not only could the registrar of motor vehicles revoke a driver’s license, but also a certificate of registration, and thereby prevent the use of the motor vehicle by anyone. For example, if a driver was convicted of operating his motor vehicle while under the influence of intoxicating liquor, he could be deprived of his certificate of registration, and without this certificate of registration, no one could operate his motor vehicle. He could not be driven by a chauffeur; nor could any member of his family use the motor vehicle. This act, in this form, had even farther reaching effects, for it provided that “*each* certificate of registration” should be revoked, and thereby included every car, truck or bus which was registered in the

owner's name. Thus, if the offender was engaged in the trucking business or taxi service, he would after conviction, be deprived of earning a livelihood, unless he showed his financial responsibility as provided in Section 6298-5 et seq., General Code.

It is apparent to me that the General Assembly intended to remove such harsh results by the enactment of subsequent amendments to the Financial Responsibility Law. Section 6298-1 was amended by the 93rd General Assembly. That amendment, however, is not significant to the present problem. But again in May, 1943, this action was amended by the 95th General Assembly (120 O. L. 658) to read in part as follows:

"The registrar of motor vehicles of the state of Ohio is hereby authorized and empowered to and shall, in accordance with the provisions of this act, revoke and terminate the right and privilege of operating a motor vehicle upon the public streets, roads and highways of this state and each *license, certificate, or permit* to operate a motor vehicle, as chauffeur or otherwise, of or belonging to any person, * * *" (Emphasis added.)

Significant therein, is the omission of the words "and each certificate of registration for a motor vehicle." This act, as it now reads, protects the welfare of the motorist on the public highways by prohibiting operators convicted of an offense enumerated in Section 6298-1, General Code, from operating a motor vehicle. On the other hand, by the omission, the General Assembly provides the offender with the benefit of his motor vehicle if it is to be operated by a legally qualified person.

Other sections were at that time, amended to conform with the above important deletion. Section 6298-4, as originally enacted, read as follows:

"The registrar of motor vehicles may, at any time, and 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 or failed to satisfy or stay the execution of a judgment, as set forth in this act, to show cause why his right and privilege of operating a motor vehicle upon the public roads and highways of this state, his license, certificate, or permit to operate a motor vehicle, and the *certificate, or certificates, of registration of his motor vehicle, or motor vehicles*, should not be revoked and terminated. * * * 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, his li-

cense, certificate, or permit to operate a motor vehicle, *and all certificates of registration issued for his motor vehicles.* Such order shall, unless vacated, modified, or reversed, as provided in this act, remain in full force and effect for a period of one year from the date thereof, and while such order is in force, no license, certificate, or permit to operate a motor vehicle, either as chauffeur or otherwise, *nor any certificate of registration for a motor vehicle,* shall be issued to such person.” (Emphasis added.)

However, the 95th General Assembly, by amendment, deleted the phrases which I have underlined above. Similarly, by amendment, the same phrases were deleted from Section 6298-10, General Code.

At the time, when the 95th General Assembly amended the prior mentioned sections, they further enacted supplemental Sections 6298-4a, and 6298-23a, which read :

Section 6298-4a, General Code :

“The registrar of motor vehicles shall, upon receipt of a certified copy or transcript of the conviction of a person of any offense named in paragraph (a) of section 6298-1 of the General Code, issue and serve, by registered mail addressed to such person’s last known address, a notice, requiring him to show cause why his right and privilege of operating a motor vehicle upon the public streets, roads and highways of this state and his *license, certificate, or permit to operate* a motor vehicle, should not be revoked and terminated. * * * the registrar shall issue an order revoking and terminating such person’s right and privilege of operating a motor vehicle upon the public streets, roads and highways of this state and his *license, certificate, or permit to operate* a motor vehicle. Such order shall, unless vacated, modified or reversed, as provided in this act, remain in full force and effect for a period of three (3) years, from the date thereof, and while such order is in force, *no license, certificate, or permit to operate* a motor vehicle either as chauffeur or otherwise, shall be issued to such person. The registrar shall vacate his order of revocation upon proof of ability to respond in damages, as set forth in section 6298-6 of the General Code, after the order has become effective.” (Emphasis added.)

Section 6298-23a, General Code :

“Any person whose right and privilege of operating a motor vehicle upon the public roads and highways of this state and whose *license, certificate, or permit to operate* a motor vehicle, as chauffeur or otherwise, is revoked as provided by this act,
* * *

(Emphasis added.)

It is apparent that the General Assembly incorporated within these sections the phrase, "license, certificate, or permit to operate a motor vehicle," but significantly omitted the phrase, "and each certificate of registration."

In light of the foregoing legislative treatment of the subject, Section 6298-22 may appear incongruous in its relation to the above mentioned sections; nevertheless, this section should be so construed as to harmonize its provisions with those of the other sections. In connection therewith, it is important to note that Section 6298-22 refers to certificate or certificates of registration which shall have been revoked "as herein provided." Since the words "as herein provided" can only mean as provided in Section 6298-1, and inasmuch as said latter section, as amended, no longer contains authority for revocation of a certificate of registration, it must follow that Section 6298-22 cannot be literally applied.

Consequently, in my opinion, if a person's right and privilege of operating a motor vehicle on the highways of this state has been revoked in accordance with Section 6298-1, et seq., you are nevertheless, without authority in law to require such person to surrender his certificate or certificates of registration and number plates.

Respectfully,

HUGH S. JENKINS,
Attorney General.