

5913

1. MOTOR VEHICLES, REGISTRAR — SECTION 6298-4 G. C. DOES NOT LIMIT TIME ORDER MAY ISSUE TO REVOKE LICENSE — PERSON FAILED TO SATISFY JUDGMENT — ACTION, WRONGFUL DEATH, PERSONAL INJURY OR DAMAGES TO PROPERTY — INDIVIDUAL OPERATED MOTOR VEHICLE.
2. DUTY REGISTRAR TO SERVE NOTICE WHERE FAILURE TO PAY JUDGMENT—WHEN ORDER SHALL ISSUE TO REVOKE LICENSE, CERTIFICATE OR PERMIT TO OPERATE, MOTOR VEHICLE AND CERTIFICATE OR CERTIFICATES OF REGISTRATION OF MOTOR VEHICLE OR MOTOR VEHICLES.
3. WHEN SUCH ORDER ISSUED—EFFECTIVE—PERIOD ONE YEAR FROM DATE.

## SYLLABUS:

1. Section 6298-4, General Code, does not limit the time within which the Registrar of Motor Vehicles may issue an order revoking the license of a person who within thirty days after the rendition thereof has failed to satisfy a judgment against him in an action for wrongful death, personal injury or damage to property caused by such person's individual operation of a motor vehicle.

2. Under the provisions of Section 6298-4, General Code, it is the mandatory duty of the Registrar of Motor Vehicles to serve the notice provided for therein on a person who has failed to pay the installments due on a judgment rendered against him in accordance with a court order authorizing such payments; and upon a failure of such person to show cause why his license should not be revoked, as provided in said section, the Registrar must issue an order revoking such person's license, certificate or permit to operate a motor vehicle and the certificate or certificates of registration of his motor vehicle or motor vehicles.

3. When such an order is issued, it is effective for a period of one year from the date thereof.

Columbus, Ohio, March 20, 1943.

Hon. Cylon W. Wallace, Registrar, Bureau of Motor Vehicles,  
Columbus, Ohio.

Dear Sir:

I hereby acknowledge receipt of your request for my opinion, which reads as follows:

"Paragraph 2 of Section 6298-2 of the General Code of Ohio grants defendants against whom judgments have been obtained, which are not paid within thirty days, the right to apply to the trial court for the privilege of satisfying same in installment payments, fixed as to amount and time by the court. That as long as the order of the court is complied with, that the Registrar may permit such defendants to operate motor vehicles upon the highways of the State without filing proof of ability to respond in damages.

Section 6298-4 prescribes the method the Registrar must pursue in order to revoke the driving rights upon the highways of the State of drivers who have become amenable to the Financial Responsibility Law.

You will note that upon receipt of the report of the Court the Registrar notifies the defendant reported that if he does not show cause within thirty days, why the Registrar cannot lawfully revoke his driving rights or, alternatively, file acceptable proof of ability to respond in damages, his driving rights will be revoked upon the highways of the State for one year.

Accordingly, the revocation period dates from thirty days after the Court's report is received, for a year.

Question: Does the Registrar lose jurisdiction of the reported case after the revocation period has run a year?

The above query is based upon the following facts: The Registrar received a report from the Municipal Court of Akron, Ohio, May 1, 1939, that a judgment against the defendant named therein had not been satisfied. On the same day the Registrar notified said defendant, as required in Section 6298-4, that if he did not, within thirty days, show cause why the Registrar cannot lawfully revoke his driving rights upon the highways of the State for a year or, alternatively, file acceptable proof of his ability to respond in damages, his driving rights upon the State highways would be revoked for a year. On the 20th day of May, 1939, the Registrar received a certified copy of the trial Court's order granting the defendant the privilege to pay the judgment in installments of \$3.00 per month, beginning November 30th, 1939. The Registrar, thereupon, did not revoke the driving rights upon the State highways of said defendant. No notice was received by the Registrar on or before June 1, 1940, the date when the revocation year would have terminated, if it had been issued by the Registrar, that the defendant was not living up to the order of the court. On July 29, 1942, the Registrar received a notice that the said defendant has not lived up to the order of the court granting him the privilege of paying the judgment in installments. The jurisdiction of the Registrar is now sought for the purpose of revoking the driving rights of said defendant on the State highways for a year.

Further questions: Has the Registrar jurisdiction so to do? If so, for what period of time?"

Your inquiry involves a consideration of Sections 6298-1, 6298-2, 6298-3 and 6298-4, General Code, which provide, in so far as is pertinent herein, as follows:

Section 6298-1.

"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: \* \* \*

(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."

Section 6298-2.

"\* \* \* A judgment debtor to whom this act applies may, by written motion, notice of which shall be given to the judgment creditor in the same manner as other motions, apply to the trial court in which the judgment was obtained for the privilege of paying such judgment in installments and the court may, without affecting any rights to execute upon such judgment, grant such motion and fix the amounts and times of payments of the installments. As long as said order is complied with, the registrar of motor vehicles may, without proof of the ability of such judgment debtor to respond in damages, permit the judgment debtor's right and privilege of operating a motor vehicle, his licenses, certificate, and permit to operate a motor vehicle, and the certificate or certificates of registration for his motor vehicle or motor vehicles, to remain in force and unrevoked."

Section 6298-3.

"The trial court, which passes sentence or imposes a fine upon a person for any of the offenses set forth in section 1 (a) (General Code, Section 6298-1 (a)) of this act, or renders a final judgment which remains unsatisfied and not stayed as set forth in section 1 (b) (General Code, Section 6298-1 (b)) of this act, shall forward immediately to the registrar of motor

vehicles, a certified copy or transcript of such conviction or judgment, together with such other information as the registrar may prescribe.”

Section 6298-4.

“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. 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 herein 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, his license, 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.”

It will be noted that none of the afore-quoted statutes provide a time limitation on the jurisdiction of the Registrar to issue an order revoking a license in a case where a judgment rendered has not been stayed in accordance with the provisions of Section 6298-2, General Code.

To the contrary the first clause of said Section 6298-4, provides that the registrar may *at any time* issue and serve the notice provided for therein. The only time limitation appearing in said statutes is that such an order *when issued* shall be effective for a period of one year from the date of such order. In fact, Section 6298-2, General Code, specifically authorizes the Registrar of Motor Vehicles to defer action with respect to revoking the driving rights of a person in a case governed by these statutes, when such person is paying a judgment in installments, pursuant to a court order, as long as said order is complied with.

It is, therefore, apparent that you were acting within your authority when, after receiving a certified copy of the trial court’s order granting a

person the privilege of paying the judgment rendered against him in installments, you took no action to revoke his license.

However, upon the receipt of a further notice that said person was not complying with the court's order for the payment of the judgment in installments, it became your duty to again notify said person, as provided for in Section 6298-4, that his license would be revoked unless, prior to the expiration of thirty days from the date of your notice, he satisfied you that there was no authority to make an order revoking his license or that he was financially responsible, as provided in the succeeding sections of the General Code. If after serving such a notice and such person has failed to satisfy you that one of the two aforementioned conditions exist you issued an order revoking such person's driving rights, such order would be effective for a period of one year from the date of the order.

Specifically answering your questions, it is therefore my opinion :

1. Section 6298-4, General Code, does not limit the time within which the Registrar of Motor Vehicles may issue an order revoking the license of a person who within thirty days after the rendition thereof has failed to satisfy a judgment against him in an action for wrongful death, personal injury or damage to property caused by such person's individual operation of a motor vehicle.

2. Under the provisions of Section 6298-4, General Code, it is the mandatory duty of the Registrar of Motor Vehicles to serve the notice provided for therein on a person who has failed to pay the installments due on a judgment rendered against him in accordance with a court order authorizing such payments; and upon a failure of such person to show cause why his license should not be revoked, as provided in said section, the Registrar must issue an order revoking such person's license, certificate or permit to operate a motor vehicle and the certificate or certificates of registration of his motor vehicle or motor vehicles.

3. When such an order is issued, it is effective for a period of one year from the date thereof.

Respectfully,

THOMAS J. HERBERT,  
Attorney General.