

ment installments, stating the amounts of the re-assessment installments and the years within which said installments are payable.

Respectfully,

HERBERT S. DUFFY,
Attorney General.

1901.

APPROVAL—ARTICLES OF INCORPORATION, THE RICHLAND EQUITY FIRE AND LIGHTNING PROTECTED MUTUAL INSURANCE ASSOCIATION OF SHELBY, OHIO.

COLUMBUS, OHIO, February 8, 1938.

HON. WILLIAM J. KENNEDY, *Secretary of State, Columbus, Ohio.*

DEAR SIR: I have examined the certificate of amendment to the articles of The Richland Equity Fire and Lightning Protected Mutual Insurance Association of Shelby, Ohio, which you have submitted for my approval.

Finding the same not to be inconsistent with the Constitution or laws of the United States or of the State of Ohio, I have endorsed my approval thereon and return the same to you herewith.

Respectfully,

HERBERT S. DUFFY,
Attorney General.

1902.

REGISTRAR OF MOTOR VEHICLES—FINANCIAL RESPONSIBILITY LAW—DRIVERS' LICENSE LAW—SECTIONS 6298-1, 6296-1 ET SEQ., G. C.—NO AUTHORITY TO RESTORE DRIVER'S LICENSE SUSPENDED OR REVOKED BY TRIAL JUDGE—WHERE COURT UNDER SECTION 6296-17 G. C. SUSPENDS OR REVOKES LICENSE—SUCH COURT MAY NOT LATER MODIFY, CHANGE OR RESTORE SUCH LICENSE.

SYLLABUS:

1. *The Registrar of Motor Vehicles has no authority either under the provisions of the Financial Responsibility Law (Sections 6298-1, et*

seq. of the General Code) or the Drivers' License Law (Sections 6296-1 et seq., of the General Code) to restore the driver's license of any person which has been suspended or revoked by the trial judge of a court of record by reason of such person's plea of guilty to or conviction of any of the offenses set forth in Section 6296-17 of the General Code.

2. *When a trial judge of a court of record in addition to a sentence authorized and directed to be imposed for a violation of the provisions of Section 6296-17 of the General Code, suspends or revokes the driver's license of the person so convicted, such court at a later date may not modify, change or restore such driver's license so suspended or revoked.*

COLUMBUS, OHIO, February 9, 1938.

HON. FRED ELSASS, *Clerk, House of Representatives, Columbus, Ohio.*

DEAR SIR: This is to acknowledge receipt of your recent communication, together with certified copy of House Resolution No. 143, adopted by the House of the 92nd General Assembly on January 27, 1938, the terms of which request my opinion on the following questions:

1. Does the Registrar of Motor Vehicles have the authority to restore drivers' licenses which have been suspended or revoked by the trial judge as a result of being convicted of one or more of the crimes set forth in Section 6296-17 of the General Code of Ohio?

2. Is the sole authority to restore suspended or revoked licenses vested in the judges of the various courts, when such suspension or revocation is a result of being convicted of one or more of the crimes set forth in Section 6296-17 of the General Code of Ohio?

A determination of the foregoing questions necessitates a consideration of both the Financial Responsibility Law of Ohio (Sections 6298-1, et seq., General Code), and the Drivers' License Law of Ohio (Sections 6296-1, et seq., General Code).

The Financial Responsibility Law was enacted by the 91st General Assembly, effective August 20, 1935. A reading of this law in its entirety reveals that the same was passed as a regulatory measure designed to eliminate the irresponsible driver from the public roads and highways of this state.

Succinctly stated, the provisions of this law empower and authorize the Registrar of Motor Vehicles to 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 after the effective date of the act either—

(a) been convicted of or pleads 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) Failure 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. (Section 6298-1, G. C.)

The foregoing is subject to the proviso that such person fails within thirty days from date of notice of the Registrar to show to his satisfaction that there is no authority for the revocation or determination of his right and privilege of operating a motor vehicle, or unless within that period of time such person fails to satisfy the Registrar of his ability to respond in damages for any judgment or judgments that might thereafter be rendered against him (Section 6298-4 and 6298-5, General Code.) Section 6298-6, General Code, provides the means by which a person may show proof of ability to respond in damages, namely, by showing that there has been issued to or for the benefit of such person a motor vehicle liability policy or a bond of a surety company in the sum of \$11,000, conditioned for the payment of a judgment or judgments which may be rendered against such person upon causes of action arising within one year after the date of making proof.

The Drivers' License Law of Ohio enacted by the 91st General Assembly, effective October 1, 1936, is a penal measure and like the Financial Responsibility Law is designed to forever bar the reckless and dangerous driver from the public roads and highways of this state. Section 6296-17 of the General Code, provides as follows:

“The trial judge of any court of record shall, in addition to, or independent of, all other penalties provided by law or or-

dinance, suspend for any period of time or revoke the license of any person who is convicted of or pleads guilty to any of the following crimes:

1. Manslaughter resulting from the operation of a motor vehicle.
2. Operating a motor vehicle while under the influence of intoxicating liquor or narcotic drug.
3. Perjury or the making of a false affidavit under this act or any other law of this state requiring the registration of motor vehicles or regulating their operation on the highway.
4. Any crime punishable as a felony under the motor vehicle laws of this state or any other felony in the commission of which a motor vehicle is used.
5. Failing to stop and disclose identity at the scene of the accident when required so to do by law.

After an operator's or chauffeur's license has been suspended or revoked, the trial court shall cause the offender to deliver to the court such license and the court or clerk thereof shall, if such license has been suspended, retain possession thereof during the period of suspension and shall immediately notify the registrar of the action of the court. If such license has been revoked, the court, or the clerk thereof, shall forthwith forward to the registrar such license together with notice of such revocation."

Prior to the enactment of the above section relative to the power and authority of the trial judge of a court of record to suspend or revoke the license of any person upon a plea of guilty to or conviction of any of the offenses therein enumerated, the provisions of Sections 12607-1 and 12628-1, General Code, contained the only authority for the suspension or revocation by a trial judge of a person's right and privilege of operating a motor vehicle. These sections provided in part as follows:

Section 12607-1.

"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 workhouse not more than ninety days or both."

Section 12628-1.

"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."

Comparing the provisions of Section 6296-17, General Code, with the provisions of Sections 12607-1 and 12628-1, General Code, in effect at the time of the enactment of the Drivers' License Law, it will be noted that the provisions thereof are very similar with the possible exception that under the provisions of Section 6296-17, *supra*, the power of suspension and revocation of a driver's license is limited to the trial judge of a court of record.

In Opinion No. 4657, found in the Opinions of the Attorney General for 1935, Volume II, page 1200, the then Attorney General had under

consideration both the provisions of the Financial Responsibility Law and Sections 12607-1 and 12628-1, *supra*. This opinion was rendered in response to a request by the Registrar of Motor Vehicles involving the question as to whether the Registrar could, upon a person's furnishing proof of ability to respond in damages, in accordance with the provisions of the Financial Responsibility Law, permit such person to operate a motor vehicle notwithstanding the fact that the court had, upon a plea of guilty to or conviction of any of the offenses enumerated in Section 6298-1 of the General Code, suspended or revoked such person's right and privilege of operating a motor vehicle. The conclusion reached in this opinion was as follows:

“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.”

The reasoning on which the foregoing conclusion is based is stated on page 1204, as follows:

“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 consciousness of his guilt, fails to stop after a motor vehicle accident."

I can see no reason why the conclusion reached in the foregoing opinion concerning a question which is identical to the situation here considered is not applicable and dispositive of the question presented. This due to the very obvious reason that the Legislature in the enactment of the Drivers' License Law in no way attempted to modify or restrict the power which courts formerly possessed regarding the suspension or revocation of a person's right and privilege of operating a motor vehicle.

It is a cardinal rule of statutory construction that statutes should not be interpreted so as to produce absurd consequences or injustice. This rule is well stated in the case of *Hill vs. Micham*, 116 O. S. 549, at page 553:

"* * * the construction of a statute depends upon its operation and effect, and not upon the form that it may be made to assume. *Butzman vs. Whitbeck*, 42 Ohio St., 223. It has also been held that it is the duty of courts, in the interpretation of statutes, unless restrained by the letter, to adopt that view which will avoid absurd consequences, injustice, or great inconvenience, as none of these can be presumed to have been within the legislative intent. *Moore vs. Given*, 39 Ohio St., 661."

It is apparent that if an interpretation were placed upon the provisions of the Financial Responsibility Law, the effect of which would authorize the Registrar to restore a driver's license which had been suspended or revoked by a trial judge of a court of record upon a plea of guilty to or conviction of any of the offenses enumerated either in Section 6298-1 or Section 6296-17, General Code, merely because such person had complied with the provisions of the Financial Responsibility Law in furnishing to the satisfaction of the Registrar proof of his ability

to respond in damages, such an interpretation, in my opinion, would lead to an absurd conclusion and would in practice be productive of absurd consequences.

Coming now to a consideration of the second question presented, it again becomes necessary to refer to the provisions of Section 6296-17, *supra*. It will be noted from a reading of this section that no provision is therein contained which can be construed as vesting in a trial judge of a court of record, the authority to restore a driver's license of a person which had previously been suspended or revoked by said court, on such person's plea of guilty to or conviction of any of the offenses therein enumerated. Consequently, it becomes necessary in order to arrive at a proper conclusion concerning the question here considered, to determine whether under the general provisions of law a trial judge may after the imposition of sentence remit the same or suspend such sentence in whole or in part upon such terms as he may impose. A review of the statutes on this particular subject discloses that in prosecutions for crime where a person had pleaded guilty to or been convicted of an offense, a judge or magistrate, if the facts and circumstances of the particular case so warrant, may suspend the imposition of sentence and place the defendant on probation in the manner provided by law. (See Section 13452-1, General Code).

Again, under the provisions of Section 13451-8 (b) I find that any court sentencing a person for a misdemeanor may at the time of sentence remit or suspend the same upon such terms as he may impose. However, the foregoing sections of the General Code, have no application where a sentence has been imposed by a judge or magistrate and carried into execution and, accordingly, the provisions of these sections have no application to the question here considered. In the instant case I am confronted with the question as to whether a trial judge, after the imposition of sentence, a part of which involved the suspension or revocation of a driver's license, may at a later date restore such suspended or revoked license upon such terms or conditions as he may impose.

A question analogous to the one here considered confronted the Attorney General in an opinion rendered on August 26, 1929. This opinion, found in the Opinions of the Attorney General for 1929, Volume II, at page 1215, involved a consideration of the question as to whether or not a justice of the peace, or other judicial officer imposing a sentence and revoking the right to operate a motor vehicle, can modify his sentence after the same is passed to permit the person so convicted to drive his motor vehicle within certain restricted limits. In a well considered opinion, it was then held as is disclosed by the third branch of the syllabus:

“When a court has found an accused guilty of violating the provisions of Section 12628-1, General Code, and imposed a sentence, and the offender has entered on the execution of the sentence, such court is without power to modify or change the sentence so as to make it inapplicable to certain streets and highways.”

Since the rendition of the above cited opinion there has been no legislation enacted which in any degree modifies or changes the conclusions therein reached. Accordingly, it is my opinion that the same is applicable and dispositive of the second question presented for consideration.

It is therefore my opinion, in specific answer to your questions, that:

1. The Registrar of Motor Vehicles has no authority either under the provisions of the Financial Responsibility Law (Sections 6298-1, et seq. of the General Code) or the Drivers' License Law (Sections 6296-1, et seq. of the General Code) to restore the driver's license of any person which has been suspended or revoked by the trial judge of a court of record by reason of such person's plea of guilty to or conviction of any of the offenses set forth in Section 6296-17 of the General Code.

2. When a trial judge of a court of record in addition to a sentence authorized and directed to be imposed for a violation of the provisions of Section 6296-17 of the General Code, suspends or revokes the driver's license of the person so convicted, such court at a later date may not modify, change or restore such driver's license so suspended or revoked.

Respectfully,

HERBERT S. DUFFY,

Attorney General.

1903.

APPROVAL—BONDS AMANDA VILLAGE SCHOOL DISTRICT,
FAIRFIELD COUNTY, OHIO, \$1,790.00, DATED FEBRUARY
1, 1938.

COLUMBUS, OHIO, February 9, 1938.

Retirement Board, State Teachers Retirement System, Columbus, Ohio.
GENTLEMEN :

RE: Bonds of Amanda Village School Dist., Fair-
field County, Ohio, \$1,790.00 (Limited).