

3439

WHERE A LICENSE OF PERSON IS SUSPENDED UNDER THE FINANCIAL RESPONSIBILITY STATUTE, HE MAY NOT OBTAIN A LICENSE DURING THAT 3 YEAR PERIOD WITHOUT GIVING PROOF OF FINANCIAL RESPONSIBILITY BUT NEED NOT DO SO AFTER THE 3 YEAR PERIOD—§§4509.31, 4509.34, 4509.67, R.C.

SYLLABUS:

Under Section 4509.34, Revised Code, where a license and registration of a person is suspended pursuant to Section 4509.31, Revised Code, no license or registration may be given to such person during the period of three years after notice was given to the registrar of motor vehicles under said Section 4509.31 unless such person gives and maintains proof of financial responsibility; but after the expiration of said three-year period, said person is not required to maintain proof of financial responsibility in order to obtain a license or registration.

Columbus, Ohio, November 27, 1962

Hon. James H. DeWeese, Prosecuting Attorney
Miami County, Troy, Ohio

Dear Sir:

I have before me your request for my opinion which reads as follows:

"We recently had a situation in which the Registrar of Motor Vehicles had suspended the license of a person and the registration of all motor vehicles registered in such person's name for failure of that person to give and maintain proof of financial responsibility under the provisions of R. C. 4509.31, but after the lapse of a period of three years he obtained a license and registered a motor vehicle. I understand this is the regular practice and consequently a number of persons whose licenses and registrations are suspended under R. C. 4509.31 merely sit out the suspension for three years and then obtain licenses and register motor vehicles without ever maintaining financial responsibility. However, R. C. 4509.34 seems to provide that if the Registrar of Motor Vehicles does actually suspend a person's license and registration under R. C. 4509.31, then such suspension remains in effect until such person gives and thereafter maintains proof of financial responsibility. It thus appears to me that under the provisions of R. C. 4509.31 a person may prevent the Registrar from suspending his license and registration if such person gives and maintains proof of financial responsibility for a period of three years, but if the person's license and registration is actually suspended by the Registrar because of the person's failure to give and maintain financial responsibility for a period of three years, then that person cannot obtain a license or register a motor vehicle without giving and forever maintaining proof of financial responsibility.

"I would like to have your opinion with regard to whether or not a person whose license and registration is actually suspended by the Registrar of Motor Vehicles under the provisions of R. C. 4509.31 may, after the expiration of three years from the date of such suspension, obtain a license and register a motor vehicle without giving and thereafter maintaining proof of financial responsibility."

Section 4509.31, Revised Code, provides:

"Whenever the registrar of motor vehicles receives notice from a court of record that a person has been convicted of, pleads guilty, or forfeits any bail or collateral deposited to secure an appearance for trial for any of the crimes listed in section 4507.16 of the Revised Code, the registrar shall suspend the license of

such person and the registration of all motor vehicles registered in the name of such person as the owner except that the registrar shall not suspend such license and registration unless otherwise required by law in the event such owner has given or immediately gives and thereafter maintains, for a period of three years, proof of financial responsibility with respect to all the motor vehicles registered by such person as the owner.”

Section 4509.34, Revised Code, provides:

“(A) The suspension or revocation of a license referred to in sections 4509.31 and 4509.291 of the Revised Code shall remain in effect and the registrar of motor vehicles shall not issue to any person whose license is so suspended or revoked any new or renewal license until permitted under the motor vehicle laws, and not then until such person gives and thereafter maintains proof of financial responsibility.

“(B) The suspension of registration referred to in such sections shall remain in effect and the registrar shall not register or reregister in the name of any person whose registration is so suspended as owner of any motor vehicle, nor return or re-issue license plates for such vehicle, until such person gives and thereafter maintains proof of financial responsibility.”

Under Section 4509.31, *supra*, where a person obtains proof of financial responsibility, he is required to maintain it until three years after the registrar of motor vehicles received the notice provided in the section.

Where a license and registration are suspended under Section 4509.31, *supra*, a new license and a new registration may not be issued until the person concerned gives *and thereafter maintains* proof of financial responsibility (Section 4509.34, *supra*).

While Section 4509.34, *supra*, on its face, might appear to require that a person whose license and registration were suspended must forever maintain proof of financial responsibility if he is to own and operate a motor vehicle in this state, I believe that Sections 4509.31 and 4509.34, *supra*, must be read together to ascertain the intent of the legislature in this regard. Also, the provisions of Section 4509.67, Revised Code, must be considered in this question. Said Section 4509.67, reads, in part, as follows:

“(A) The registrar of motor vehicles shall, upon request, consent to the immediate cancellation of any bond or certificate of insurance, or shall direct and the treasurer of state shall return to the person entitled any money or securities deposited under sections 4509.01 to 4509.78, inclusive, of the Revised Code, as proof

of financial responsibility, or the registrar shall waive the requirement of filing proof, in any of the following events:

“(1) At any time after three years from the date such proof was required when, during the three years preceding the request, the registrar has not received record of a conviction or bail forfeiture which would require or permit the suspension or revocation of the license, registration, or nonresident’s operating privilege of the person by or for whom such proof was furnished;

“* * * * * * * * *

“(3) In the event the person who has given proof surrenders his license and registration to the registrar.

“* * * * * * * * *

“(C) Whenever any person whose proof has been canceled or returned under division (A) (3) of this section applies for a license or registration within a period of three years from the date proof was originally required, any such application shall be refused unless the applicant re-establishes proof of financial responsibility for the remainder of the three-year period.”

Division (C) of Section 4509.67, *supra*, contemplates the situation where proof was given but canceled or returned before the end of the three-year period. In such case, the person concerned may not get a license or registration unless he establishes proof of financial responsibility for the remainder of the three-year period. Obviously, however, under the language used, the prohibition against getting a license or registration applies only to the three-year period. After the expiration of that period, the person may get a license or registration even though his proof of financial responsibility was canceled or returned and not re-established.

It would appear that a person who establishes proof but then has it canceled or returned is in the same position as a person who did not establish proof in the first place, and that it would be the intention of the legislature that such persons be treated in the same manner as to the furnishing of proof after the three-year period. I believe that such intention should be given consideration in construing Section 4509.34, *supra*.

It appears evident from the language of the sections of law concerned that the intention is to allow persons convicted of certain crimes to operate and register motor vehicles for a period of three years only if such persons maintain proof of financial responsibility for such period; there is no requirement that such proof be maintained after the three-year period if it was given and maintained for that period. It would follow, therefore, that

where the necessary proof is not given and maintained, and the license and registration are suspended, the suspension is for the three-year period; and the language of division (C) of Section 4509.67, *supra*, leads me to believe that such was the intention of the legislature in enacting the sections of law in question. At the same time, if during said three-year period the person whose license and registration were suspended does give and maintain proper proof, the registrar may issue a license and registration for the remainder of the period and afterward.

As noted in your letter of request, the registrar of motor vehicles has in the past proceeded in accordance with the above conclusion, that is, he has imposed suspension under Section 4509.31, *supra*, for only the three year period, and has not required that proof of financial responsibility be filed and maintained after that period in order that the person concerned be allowed to obtain a license and registration. In this regard, it is a general rule of statutory construction that great weight should be given to the interpretation placed upon a law and followed by the agency which is required to enforce the law. 50 Ohio Jurisprudence 2d, 253, Section 268.

In conclusion, it is my opinion and you are advised that, under Section 4509.34, Revised Code, where a license and registration of a person is suspended pursuant to Section 4509.31, Revised Code, no license or registration may be given to such person during the period of three years after notice was given to the registrar of motor vehicles under said Section 4509.31 unless such person gives and maintains proof of financial responsibility; but after the expiration of said three-year period, said person is not required to maintain proof of financial responsibility in order to obtain a license or registration.

Respectfully,

MARK MCELROY
Attorney General