

1698

MOTOR VEHICLE—OPERATOR WHO WAS CONVICTED OF OR PLEAD GUILTY TO VIOLATION OF SECTION 12606 G. C., NOT AMENABLE TO PROVISIONS OF SECTION 6298-1 G. C. FOR REFUSAL, UPON REQUEST, TO IDENTIFY HIMSELF AFTER STOPPING AT SCENE OF ACCIDENT.

SYLLABUS:

The operator of a motor vehicle who has been convicted of or pleaded guilty to a violation of Section 12606, General Code, only in that after stopping at the scene of an accident he refused to identify himself when requested so to do, is not thereby amenable to the provisions of Section 6298-1, General Code.

Columbus, Ohio, March 18, 1947

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

Dear Sir:

Your immediate predecessor in office, the Honorable Frank M. Quinn, requested my opinion as follows:

“Calling your attention to the provisions of Section 12606, General Code and to the provisions of the Financial Responsi-

bility Law and indirectly the provisions of Section 6296-17-5, General Code, the question has been raised as to whether or not the operator of a motor vehicle who has been involved in an accident who stops at the accident but refuses to divulge his name and address, is amenable to the provisions of the Financial Responsibility Law.

Specifically, is the operator of a motor vehicle involved in an accident required in addition to stopping at such accident required to give his name and address upon request in order to become amenable to the provisions of the Ohio Financial Responsibility Law?"

The sections of the General Code to which you refer in your letter concern both the penal and civil provisions of the code. Sections 6298-1 to 6298-26 of the General Code comprise what is known as the financial responsibility law of Ohio. Section 6298-1, General Code, in so far as pertinent to your question, provides:

"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, who after the effective date of this amendatory act has either:

"(a) Been convicted of or pleaded guilty to any of the following offenses, in any court of record within this state whether prosecuted under the state law or municipal ordinance, to wit:  
\* \* \*

"3. *Failing to stop after an accident*, when required so to do; \* \* \*." (Emphasis added.)

In view of the above quoted language of the statute, the question then presented is when is a person required to stop after an accident. The only statutory provision requiring a person to stop after an accident is Section 12606 of the General Code, which section is found in the penal provisions of the code and provides:

"In case of accident to or collision with persons or property upon any of the public roads or highways, due to the driving or operation thereon of any motor vehicle, the person so driving or operating such motor vehicle, and having knowledge of such accident or collision, *shall stop and upon request of the person injured or any person, give such person his name and address*

and in addition thereto if not the owner, the name and address of the owner of such motor vehicle, together with the registered number of such motor vehicle.

“Any person who violates the provisions of this section shall be deemed guilty of a misdemeanor and upon conviction thereof, shall be fined not more than two hundred dollars or imprisoned in the county jail or workhouse not more than six months, or both.” (Emphasis added.)

Section 6298-1, General Code, although not strictly a criminal statute is, since it operates to take away the privilege or right of a citizen who violates any of its provisions, to drive or operate a motor vehicle upon the streets and highways of this state, a penal statute, and therefore should be strictly construed. The rule as stated in 12 O. Jur. at page 55 is

“A statute defining a crime or offense cannot be extended, by construction, to persons or things not within its descriptive terms, though they appear to be within the reason and spirit of the statute. Nor can a penal statute be extended by implication to cases not falling within its terms. Persons cannot be made subject to a statute by implication. Only those transactions are included which are within both its spirit and letter ; and all doubts in the interpretation of a statute are to be resolved in favor of the accused.”

Therefore, applying the rule of strict construction to the provisions of Section 6298-1, General Code, it becomes apparent that the provisions thereof should not be extended by interpretation to include persons or offenses not within its descriptive terms, and consequently, since said section refers only to a conviction for “failing to stop after an accident” we may not by interpolation change the offense to that defined in Section 12606, General Code, to wit “failing to stop and give name and address.”

This conclusion is buttressed by the fact that the 91st General Assembly which passed the financial responsibility law at its regular session also, at its first special session thereafter, passed the drivers license law (Sections 6296-1 to 6296-37, General Code), 116 O. L. part 2, page 33, wherein, in Section 6296-17, General Code, it is provided :

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

“5. *Failing to stop and disclose identity* at the scene of the accident when required so to do by law.” (Emphasis added.)

Thus it is seen that the same General Assembly passed one act which refers only to a conviction for failing to stop and another which deals with a conviction for both failing to stop and disclosing identity. If it had been the intention of such General Assembly to include in the financial responsibility law the offense of an operator failing to identify himself after such an accident, it would have been a simple thing to expressly state that duty, as was done in the enactment of Section 6296-17, General Code. What reason the legislature may have had for such omission I do not know, and certainly it is not within my sphere to question.

Since Section 6298-1, General Code, empowers the registrar of motor vehicles to invoke the provisions of the financial responsibility law when the operator of a motor vehicle has been convicted of or pleaded guilty in a court of record in this state to one of the offenses enumerated therein, I assume that your question arises out of the certification to you by such a court of record of the plea of guilty or the conviction of an operator of a motor vehicle of a violation of Section 12606, General Code, in that such an operator refused to identify himself at the scene of an accident as is required by said section, but that such operator was not found to have been guilty of failing to stop after such accident.

In view of the foregoing, and bearing in mind that the registrar of motor vehicles is vested with only such powers as are expressly granted to him by statute, it is therefore my opinion that the operator of a motor vehicle who has been convicted of or pleaded guilty to a violation of Section 12606, General Code, only in that after stopping at the scene of an accident he refused to identify himself when requested so to do, is not thereby amenable to the provisions of Section 6298-1, General Code.

Respectfully,

HUGH S. JENKINS,  
Attorney General.