

OPINION NO. 68-070**Syllabus:**

The law provides no authority to suspend, for any reason, the first thirty days of suspension or modify the revocation provided by Section 4507.16 of the Ohio Revised Code; however, a court may amend a suspension after the initial thirty days of the suspension period has passed.

To: Marshall E. Peterson, Greene County Pros. Atty., Xenia, Ohio
By: William B. Saxbe, Attorney General, April 16, 1968

I have before me your recent request for my opinion concerning Section 4507.16 (B) of the Ohio Revised Code.

You have inquired whether or not the trial judge of any court of record may, when proceeding under Section 4507.16 (B), issue a special thirty-day permit to drive, for employment purposes only, to any person whose license is suspended or revoked pursuant to Section 4507.16 (B).

Section 4507.16, Revised 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 by ordinance, suspend for not less than thirty days nor more than three years or revoke the license of any person who is convicted of or pleads guilty to any of the following:

"(A) Homicide by vehicle;

"(B) Operating a motor vehicle while under the influence of intoxicating liquor or narcotic drug;

"(C) Perjury or the making of a false affidavit under sections 4507.01 to 4507.39, inclusive, of the Revised Code, or any other law of this state requiring the registration of motor vehicles or regulating their operation on the highway;

"(D) 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;

"(E) Failing to stop and disclose identity at the scene of the accident when required by law to do so.

"(F) Drag racing as defined in division (A) of section 4511.25 of the Revised Code.

"(G) Wilfully eluding or fleeing a police officer.

"The trial judge of any court of record shall, in addition to suspensions or revocations of licenses for periods of time not exceeding three years, and in addition to, or independent of, all other penalties provided by law or by ordinance, impose a suspended jail sentence not to exceed six months, providing that imprisonment was not imposed for the offense for which the person was convicted.

"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 of such court shall, if such license has been suspended, or revoked in connection with any of the herein-before mentioned crimes, forthwith forward to the registrar such license together with notice of the action of the court.

"No court shall suspend the first thirty days of suspension of license provided for under this section."

If the trial judge elects to revoke a license pursuant to Section 4507.16, supra, that license has, for all practical purposes, ceased to exist. "Revoke" is defined by Black's Law Dictionary, Fourth Edition, as follows:

"To annul or make void by recalling or taking back, cancel, rescind, repeal, reverse.
* * *"

Black's Law Dictionary defines "suspend" as follows:

"To interrupt; to cause to cease for a

time * * * to discontinue temporarily, but
with an expectation or purpose of resumption.
* * *"

The underlined portion of Section 4507.16, supra, delineates, in part, material recently added to such section by amendment. The legislature has answered your inquiry, in part, by providing that no court has authority to suspend, for any reason, the first thirty days of suspension of license provided by Section 4507.16, supra.

However, there is no provision which would prohibit a court from modifying such suspension after the first thirty day period of suspension has passed.

I cannot envisage how a revocation could properly be modified because the very nature of "revocation", as distinguished from "suspension", denotes a total cancellation of the privilege to operate a motor vehicle and the only way to restore this privilege would be to issue a new license.

In this connection, Section 4507.08, Revised Code, provides in pertinent part as follows:

"No temporary instruction permit, operator's or chauffeur's license shall be issued to any person whose license, whether as operator or chauffeur, has been suspended, during the period for which such license was suspended, nor to any person whose license, whether as operator or chauffeur, has been revoked, under sections 4507.01 to 4507.39, inclusive, of the Revised Code, until the expiration of one year after such license was revoked."

Therefore, it is my opinion and you are accordingly advised that the law provides no authority to suspend, for any reason, the first thirty days of suspension or modify the revocation provided by Section 4507.16 of the Ohio Revised Code; however, a court may amend a suspension after the initial thirty days of the suspension period has passed.