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TRAFFIC ACT, UNIFORM — ABSTRACT, RECORD OF CONVICTIONS FOR VIOLATION, SHALL BE TRANSMITTED TO BUREAU OF MOTOR VEHICLES — VIOLATIONS, ORDINANCES REGULATING PARKING, OVERTIME PARKING, RESTRICTED AREAS, ETC., WITHIN PROVISIONS SECTION 6307-110 GENERAL CODE.

SYLLABUS:

Violations of ordinances regulating parking, overtime parking, parking in restricted areas, etc. come within the provisions of Section 6307-110, General Code, and an abstract of the record of convictions for such violations is, therefore, required to be transmitted to the Bureau of Motor Vehicles in the manner provided in said section.

Columbus Ohio, October 31, 1941

Hon. Alva J. Russell, Prosecuting Attorney,
Akron, Ohio.

Dear Sir:

This will acknowledge receipt of your request for my opinion, which reads as follows:

“Several justices of the peace in this county have requested information and guidance with reference to the new traffic code which was enacted at the present session of the Legislature.

Section 6307-110 provides in part that ‘(b) Within ten days after the conviction or forfeiture of bail of a person upon a charge of violating any provision of this act or other law or ordinance regulating the operation of vehicles, * * * every said justice * * * shall prepare and immediately forward to the bureau * * * an abstract of the record * * *.’ Your opinion is requested as to whether the quoted portion of the act contemplates the transmission of an abstract for minor violations of municipal ordinances regulating parking, overtime parking, parking in restricted areas, etc., or whether the term ‘regulating the operation of vehicles’ would exclude such minor offenses.”

Section 6307-110, General Code, quoted in part in the body of your

inquiry, provides as follows:

“(a) Every justice of the peace, mayor and every clerk of a court of record shall keep a full record of every case in which a person is charged with any violation of this act or of any other law or ordinance regulating the operation of vehicles, street cars and trackless trolleys on highways.

(b) Within ten days after the conviction or forfeiture of bail of a person upon a charge of violating any provision of this act or other law or ordinance regulating the operation of vehicles, street cars and trackless trolleys on highways every said justice of the peace, mayor, or clerk of a court of record in which such conviction was had or bail was forfeited shall prepare and immediately forward to the bureau of motor vehicles an abstract of the record of said court covering the case in which said person was so convicted or forfeited bail, which abstract must be certified by the person so required to prepare the same to be true and correct.

(c) Said abstract must be made upon a form approved and furnished by the bureau of motor vehicles and shall include the name and address of the party charged, the number of his driver's or chauffeur's license, the registration number of the vehicle involved, the nature of the offense, the date of hearing, the plea, the judgment, or whether bail forfeited and the amount of the fine or forfeiture as the case may be,

(d) Every court of record shall also forward a like report to the bureau of motor vehicles upon the conviction of any person of manslaughter or other felony in the commission of which a vehicle was used.

(e) The failure, refusal, or neglect of any such officer to comply with any of the requirements of this section shall constitute misconduct in office and shall be ground for removal therefrom.

(f) The bureau of motor vehicles shall keep all abstracts received hereunder at its main office.”

It will be noted from the foregoing that a duty is imposed upon certain officers to keep a full record of every case in which a person is charged with any violation of the Uniform Traffic Act and in case of conviction or forfeiture of bail, to prepare an abstract of said record to be immediately forwarded to the Bureau of Motor Vehicles. In addition, the designated officers are required to keep a full record of every case in which a person is charged with any violation of any other law or ordinance regulating the operation of vehicles on highways and similarly, in case of

conviction or forfeiture of bail, to prepare an abstract to be forwarded to the Bureau.

The general intendment to be drawn from the section under consideration is that the Legislature deemed it necessary to have a central source of information with complete files showing the number and type of violations arising out of the Uniform Traffic Act and cognate acts or ordinances regulating the operation of motor vehicles.

The Uniform Traffic Act, under Section 6307-66, General Code, contains regulations with respect to the parking of motor vehicles and any violation of such regulations would clearly come within the terms of Section 6307-110, *supra*. To require such information to be kept on file and to except similar violations simply because the prosecution was brought under a local ordinance would detract from the usefulness of a central informational source and present an incomplete survey.

Aside from the consideration of the purposes to be accomplished by the enactment of the legislation in question, the courts in construing the terms used indicate that they include within their scope minor violations such as parking and overtime parking.

In the case of *Maher v. Concannon*, 56 R.I. 395, the word "operation" was held not to be limited to a state of motion controlled by the mechanism of an automobile, but must include such stops, including parking, as motor vehicles ordinarily make in the course of their operation.

Also analogous is the case of *Barrington v. State of Florida*, 199 So. 320, in which it was held that the word "operated" as contemplated by the statute relating to manslaughter growing out of the operation of an automobile while the operator is intoxicated is not limited to a state of motion produced by the mechanism of an automobile, but includes at least ordinary stops on the highway which are to be regarded as fairly incidental to the operation of an automobile. According to the facts of the case, the accused left the automobile on the highway where it was parked without lights.

In the case of *Scheppmann v. Swennes*, 172 Min. 493, it was held that the term "operate" within the statute relating to the operation of

motor vehicles, means not only cars that are in motion, but also those which, in the course of operation, are parked or left standing on the highway.

To the same effect is the case of *Lima Used Car Exchange Co. v. Hemperly*, 120 O.S. 400, wherein it was held that an automobile which is parked in whole or in part upon the highway is "operated" upon the highway within Sections 6310-1 and 12614-3, General Code, requiring the display of a tail light, and the word "operated" is not limited to a state of motion produced by the mechanism of the car, but includes at least ordinary stops upon the highway.

Further substantiating the conclusion that laws or ordinances regulating the operation of motor vehicles include those relating to the parking of motor vehicles is the interpretation placed on similar language by the Legislature itself in the enactment of a previous law treating the same subject.

In Section 6296-16, General Code, it is provided in part that:

"The judge of any court of record shall, upon plea of guilty or conviction of any person for the violation of any law or ordinance relating to the operation of a motor vehicle, *except as to parking a motor vehicle*, cause such fact to be noted upon the operator's or chauffeur's license of the person convicted or pleading guilty, * * * ." (Emphasis mine.)

There the General Assembly recognized the inclusive character of the terms employed and specifically excepted violations with respect to parking.

The language of Section 6296-16, General Code, and Section 6307-110, *supra*, is so nearly identical that it is entirely proper, within the rules of statutory construction, to refer to the former in an effort to determine the meaning of the language used in the latter. While this rule is particularly applicable to statutes in *pari materia*, the same reasoning may be employed where the statute is preexisting and on a cognate subject as in the instant case.

The failure, therefore, specifically to except minor parking violations from the terms of Section 6307-110, *supra*, has only one meaning and that

is that the Legislature did not intend that such violations be excepted.

From the foregoing and in specific answer to your inquiry, it is my opinion that violations of ordinances regulating parking, overtime parking, parking in restricted areas, etc. come within the provisions of Section 6307-110, General Code, and an abstract of the record of convictions for such violations is, therefore, required to be transmitted to the Bureau of Motor Vehicles in the manner provided in said section.

Respectfully,

THOMAS J. HERBERT,

Attorney General.