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WHEN JUDGMENT FILED WITH BUREAU OF MOTOR VEHICLES, THE REGISTRAR SHOULD SUSPEND LICENSE OF PERSON AGAINST WHOM THE JUDGMENT WAS RENDERED—§§4509.02, 4509.37, R.C.

SYLLABUS:

Where a judgment as defined in division (A) of Section 4509.02, Revised Code, is filed with the Registrar of Motor Vehicles, the Registrar should suspend the license and registration of the person against whom such judgment was rendered, as provided in Section 4509.37, Revised Code; and as used in said Section 4509.37, the word "judgment" includes a judgment of another state, there being no requirement in law that a judgment of another state be reduced to judgment in this state before it may be so filed.

Columbus, Ohio, November 9, 1961

Hon. C. W. Ayers, Registrar
Bureau of Motor Vehicles, Columbus, Ohio

Dear Sir:

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

"I am in receipt of the correspondence concerning a problem which arises under the Motorists' Financial Responsibility Law, which reads in part as follows:

"Confirming my conversation with you of August 11th with regard to the above case, and during which conversation you informed me that the State of Michigan certified the above judgment to your department for the purpose of suspending the license of "Mr. T." I hereby formally request the opinion of the Attorney General as to whether a state with which we have no reciprocity can certify a judgment obtained by default against a non-resident to-wit, a citizen of Ohio. The judgment was obtained without personal service, service having been made upon the Secretary of State and this judgment was rendered by default.

"I would like the opinion of the Attorney General as to whether or not the plaintiffs in such an action as this are compelled to file their judgment in a court of competent jurisdiction in this state for purpose of certifying the same as a valid judgment and whether or not they are required in filing said judgment in a court of competent jurisdiction to obtain service and to give notice of such certification to the defendant whose license

is to be suspended. It would seem to be a fallacy in law if a state with which we have no reciprocity, in so far as the Motor Vehicle Responsibility Law is concerned, would have greater privileges than any other citizen or person certifying a judgment of a foreign state, for purpose of execution.’ ”

Section 4509.02, Revised Code, provides :

“As used in sections 4509.31 to 4509.67, inclusive, of the Revised Code:

“(A) ‘Judgment’ means any judgment which has become final by expiration without appeal of the time within which an appeal might have been perfected, or by final affirmation on appeal, rendered by a court of competent jurisdiction of *any state* or of the United States upon a cause of action arising out of the ownership, maintenance, or use of any motor vehicle for damages, including damages for care and loss of services because of bodily injury to or death of any person, or for damages because of injury, to or destruction of property, including the loss of use thereof, or upon a cause of action on an agreement of settlement for such damages.

“(B) ‘State’ means *any state*, territory, or possession of the United States, the District of Columbia, or any province of the Dominion of Canada.” (Emphasis added)

The present Section 4509.37, Revised Code, provides :

“The registrar of motor vehicles upon receipt of a certified copy of a *judgment*, shall forthwith suspend the license and registration and any non-resident’s operating privilege of any person against whom such judgment was rendered, except as provided in sections 4509.01 to 4509.78, inclusive, of the Revised Code.”

(Emphasis added)

The present Motorist Financial Responsibility Law was enacted in 1951, 124 Ohio Laws, 563, to become effective March 1, 1953, and replaced a rather weak and ineffective financial responsibility law, Section 6298-1 to 6298-26, General Code, which was originally enacted in 1935, 116 Ohio Laws, 218. The prior law, Section 6298-1, 4 (b), General Code, applied only to judgments rendered by courts of record within this state, and further provided that the suspension should be for a period of five years.

In defining the word “judgment,” the present law, unlike its predecessor, does not distinguish between a domestic judgment and a foreign

judgment, but applies to judgments of other states and the United States as well as Ohio judgments.

There is no doubt that the state may regulate the operation of motor vehicles by the issuance of licenses. It is likewise apparent that since a driver's license is a privilege, the state may lawfully impose conditions upon the exercise of that privilege. The Motorist Financial Responsibility Law seeks to compel resident and non-resident motorists to use the highways with care and to insure that persons are financially able, by insurance or deposit, to pay for injury or damages caused by the negligent operation of motor vehicles. Either the residence of an individual or the use of the highways gives the legislature authority to impose conditions such as those contained in the Motorist Financial Responsibility Law. *Smith v. Hayes*, 60 O.O. 112; *Validity of Motorist Financial Responsibility Law*, 35 A.L.R. 2d, 1011.

The precise question of whether a state may impose a condition which requires that a driver's license and registration be suspended by virtue of the rendition of a judgment in a foreign state was considered by the Supreme Court of West Virginia in *Nutler v. State Road Commission*, 119 W. Va. 312, 193 S.E., 549, 194 S.E. 270, the court stating:

"Counsel for petitioner finally contend that, irrespective of the state's right to make a domestic occurrence cause for suspension of a license, it is an unreasonable extension of the police power to make an extra-state occurrence such cause. That contention overlooks the fact that a state is not limited to its own experience in guarding the public safety; it may, and frequently does, take cognizance of what happen in other states. This has been done many times in quarantines against infectious diseases of animal and plant life in other states. Negligence in motor operation may be demonstrated as well without, as within, the state; and when without, and not compensated for, no sound reason appears why the state should not take steps tending to prevent an intrastate recurrence of such a casualty. This is not an extension of the police power beyond the state, as contended, but is simply its exercise within the state because of an out of state occurrence."

In the same respect, the United States Court of Appeals for the District of Columbia in the case of *Thompson v. Amalgamated Casualty Company*, (1953), 207 Fed. 2d. 220 stated:

"Statutes which require private motorists to carry liability insurance, or to obtain it, such as our local statute, require such

insurance to be against liability arising either within or without the licensing jurisdiction. The Uniform Motor-Vehicle Safety Responsibility Act, sponsored by the Public Roads Administration among others, contains such provisions. (Sec. 21 (b) (2), and all the forty-eight states appear to have provisions of like effect. There is a dearth of judicial opinion upon the precise point, but we have found none which hold the extra-territorial coverage invalid. If a state cannot require that a private citizen be thus insured as a condition to the use of the streets by his motor vehicle, all those statutes are invalid. If it can do so in respect to its private citizens, *a fortiori* it has power to require operators of common carriers on its streets to carry such insurance."

Thus it appears that the legislature may properly impose such a condition on resident motorists.

It might be argued that Section 4509.35, Revised Code, which requires the clerk of courts in this state to send a certified copy of judgment to the Registrar of the Bureau of Motor Vehicles, when construed with Section 4509.37, Revised Code, limits the phrase "certified copies of judgments" to judgments certified under said Section 4509.35. However, since Section 4509.37, Revised Code, does not specifically refer to the judgments certified under Section 4509.35, it would appear that the only purpose of this section is to provide a procedure for the filing of Ohio judgments with the Registrar. And while no specific procedure is provided for the filing of foreign judgments, Section 4509.02, *supra*, clearly makes *all* judgments subject to filing.

Further, there is no requirement that a foreign judgment be reduced to judgment in this state before it can be filed with the Registrar, and no reason that such a requirement should be implied.

And, finally, it is my understanding that administrative procedure over the years has been to allow the direct filing of foreign judgments with the Registrar. In this regard, it is stated in 37 Ohio Jurisprudence, Section 387, page 698:

"In interpreting a statute, it is a well-settled rule that a resort may, under proper circumstances, be had to the construction given thereto by those charged with its execution and application, especially where it has long prevailed. Judicial notice may be taken of such construction for such purpose."

Thus, even if a question existed as to the power interpretation of the question at hand, the past administrative practice would indicate that foreign judgments may be filed directly with the Registrar.

As to reciprocity between states, Section 4509.291, Revised Code, reads:

“(A) When a nonresident’s operating privilege is suspended pursuant to sections 4509.01 to 4509.78, inclusive, of the Revised Code, the registrar shall transmit a certified copy of the record of such action to the official in charge of the issuance of licenses and registration certificates in the state in which such nonresident resides, if the law of such other state provides for action in relation thereto similar to the provision set forth in division (B) of this section.

“(B) Upon receipt of a certification that the operating privilege of a resident of this state has been suspended or revoked in any other state pursuant to a law providing for its suspension or revocation for failure to deposit security for the payment of judgments arising out of a motor vehicle accident or failure to give proof of financial responsibility, under circumstances which would require the registrar to suspend a non-resident’s operating privilege had the accident occurred in this state, the registrar shall suspend the license and all registrations of such resident. Such suspension shall continue until such resident furnishes evidence of his compliance with the law of such other state relating to the deposit of such security or to the giving of proof of financial responsibility.”

The effect of this provision is to promote interstate cooperation to prevent financially irresponsible drivers from avoiding the effect of various state financial responsibility laws by moving from state to state, and to give extra territorial effect to suspensions imposed by virtue of similar laws in other states based upon the action of their motor vehicle departments.

The reciprocity provision, insofar as foreign judgment is concerned, merely relieves the judgment creditor from the obligation of forwarding a certified copy of the judgment to the driver’s resident state and insures that action will be taken wherever the person may reside upon the basis of the action of the foreign state. This increases the effectiveness of the judgment provision, plus providing suspension in accident cases and convictions occurring in foreign states when the foreign state has a law similar to ours which would require suspension of the license if the person were a resident.

Thus, I am of the opinion that the reciprocity provision, Section 4509.291, Revised Code, does not alter the application of Section 4509.37, Revised Code, to foreign judgments.

In conclusion, therefore, it is my opinion and you are advised that where a judgment as defined in division (A) of Section 4509.02, Revised Code, is filed with the Registrar of Motor Vehicles, the Registrar should suspend the license and registration of the person against whom such judgment was rendered, as provided in Section 4509.37, Revised Code; and as used in said Section 4509.37, the word "judgment" includes a judgment of another state, there being no requirement in law that a judgment of another state be reduced to judgment in this state before it may be so filed.

Respectfully,

MARK McELROY

Attorney General