

945.

## APPROVAL, BONDS OF COPLEY TOWNSHIP RURAL SCHOOL DISTRICT, SUMMIT COUNTY—\$175,000.00.

COLUMBUS, OHIO, September 30, 1929.

*Retirement Board, State Teachers Retirement System, Columbus, Ohio.*

946.

## DRIVER—MOTOR VEHICLE—DUTIES IMPOSED WHEN ACCIDENT OR COLLISION OCCURS—SUFFICIENCY OF STOPPING UNDER SECTION 12606, GENERAL CODE DEPENDENT ON CIRCUMSTANCES OF EACH CASE.

*SYLLABUS:*

1. *Under the terms of Section 12606, of the General Code, a person operating a motor vehicle upon the public roads or highways in case of an accident to or collision with persons or property, due to the driving or operation thereon of his motor vehicle, having knowledge of such accident or collision, must return to the place of the accident or collision and there remain for a sufficient time to give the person injured, or to any other person or persons a reasonable opportunity to request of him his name and address, or if he is not the owner, the name and address of the owner of such motor vehicle, together with the registration number of such motor vehicle.*

2. *Whether or not the stopping by a driver of a vehicle upon the highway after an accident or collision is a sufficient compliance with Section 12606, of the General Code, depends upon the circumstances in each particular case.*

COLUMBUS, OHIO, September 30, 1929.

HON. MICHAEL B. UNDERWOOD, *Prosecuting Attorney, Kenton, Ohio.*

DEAR SIR:—I am in receipt of your letter of recent date, which is in part, as follows:

“We submit the following for your opinion:

Section 12606 as amended by the last Legislature reads as follows:

‘In case of an 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 register 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 less than \$200.00 and imprisoned in the county jail or workhouse not more than six months or both.’

That portion of the section, 'the person so driving or operating such motor vehicle and having knowledge of such accident or collision, *shall stop* and upon request of person injured or any person, etc.'

It seems that the duty that the law lays upon the person driving the motor vehicle is to stop; it does not say that he shall present himself upon the scene or offer any assistance. The matter that I would like to have cleared is whether the mere stopping of the car after the accident for a minute or so having been proven by the evidence in a case would be sufficient to justify an acquittal upon a charge of this kind.

It seems to me that the Legislature has left this matter in rather an uncertain condition."

Section 12606, General Code, provides as follows:

" \* \* \* 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."

While penal statutes are to be strictly construed, they are not to be construed so strictly as to defeat the obvious intention of the Legislature.

The provisions of Section 12606 of the General Code, are designed to prohibit negligent and wanton drivers of motor vehicles upon the public highways from seeking to evade civil and criminal prosecutions by escaping before their identity can be established. The language of Section 12606 of the General Code should be so construed as to carry out the object and purpose of the Legislature in enacting this legislation. The mere stopping by the driver of a vehicle upon the highway, after an accident, would not carry out the object intended by the provisions of this section. The object of this section would not be satisfied by the driver of a motor vehicle stopping at some obscure or remote place, nor by stopping at the scene of an accident where the injured person is unconscious and no one else is present, without waiting a reasonable length of time for anyone who might request the information. However, it is possible that there may be a case where it was evident that no person who could make the request was likely to appear, such as where a person is only slightly injured and leaves the scene of the accident or collision. In that case, the stopping may be a sufficient compliance with the statute.

It appears to me that the language of the statute means that 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 must return to the place of the accident and there remain for a sufficient time to give the person injured or other person a reasonable opportunity to demand of him the information which the statute requires that he should give upon request. However, there is no duty imposed by the provisions of Section 12606, General Code, upon the

driver of a vehicle in case of an accident or collision, to render assistance to a person injured.

It is apparent that if Section 12606, General Code, were so construed that the mere stopping by a driver of the motor vehicle would be a sufficient compliance with the statute the very purpose of the statute would in many instances be defeated, for in some cases a person may be so injured that it would be impossible for him to leave the scene of the accident in order for him to make a request for information, unless the driver returned to the scene of the accident, and in some cases it might be impossible, because of the severity of the injuries sustained for a person to request the information required by the statute until after some time had elapsed, or until some person arrived upon the scene of the accident. Whether or not the stopping by a driver of a vehicle upon the highway after an accident is sufficient compliance with the statute, depends upon the circumstances in each particular case.

In specific answer to your inquiry, I am of the opinion:

First, That under the terms of Section 12606, of the General Code, a person operating a motor vehicle upon the public roads or highways in case of an accident to or collision with persons or property, due to the driving or operation thereon of his motor vehicle, having knowledge of such accident or collision, must return to the place of the accident or collision and there remain for a sufficient time to give the person injured, or to any other person or persons a reasonable opportunity to request of him his name and address or if he is not the owner, the name and address of the owner of such motor vehicle, together with the registration number of such motor vehicle.

Second, Whether or not the stopping by a driver of a vehicle upon the highway after an accident or collision is a sufficient compliance with Section 12606, of the General Code, depends upon the circumstances in each particular case.

Respectfully,

GILBERT BETTMAN,  
*Attorney General.*

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947.

CONTRACT—FOR PURCHASE OF COAL BETWEEN BOARD OF EDUCATION AND CORPORATION HAVING SUCH BOARD'S CLERK AS A STOCKHOLDER—VOID—NO FINDING FOR RECOVERY OF MONEY PAID—EXCEPTION NOTED.

**SYLLABUS:**

*Purchases of coal made by a board of education from a corporation, a stockholder of which is at the time of such purchase, the duly appointed clerk of said board of education, are contrary to law. However, no finding should be made for the recovery of moneys paid as the purchase price of said coal in the absence of facts showing actual fraud in the transaction relating to the purchase of the same, or that the purchase price of the coal was in substantial excess of the reasonable value thereof, since no statutory authority for such recovery exists similar to that applicable in case of municipal offices by the terms of Section 3808 of the General Code.*

COLUMBUS, OHIO, September 30, 1929.

*Bureau of Inspection and Supervision of Public Offices, Columbus, Ohio.*

GENTLEMEN:—This will acknowledge receipt of your inquiry, which reads as follows: