

5019.

APPROVAL, BONDS OF MENTOR RURAL SCHOOL DISTRICT,
LAKE COUNTY, OHIO, \$7,625.00 (56/61 UNLIMITED).

COLUMBUS, OHIO, December 19, 1935.

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

5020.

APPROVAL, BONDS OF SALESVILLE VILLAGE SCHOOL DISTRICT,
GUERNSEY COUNTY, OHIO, \$15,000.00 (UNLIMITED).

COLUMBUS, OHIO, December 19, 1935.

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

5021.

DRIVERS' FINANCIAL RESPONSIBILITY LAW—AUTHORITY
OF REGISTRAR OF MOTOR VEHICLES TO SUSPEND OR
REVOKE ORDER OF REVOCATION.

SYLLABUS:

The Registrar of Motor Vehicles does not have authority, after issuing a valid order of revocation, to suspend or revoke such order, except in accordance with the provisions of Section 6298-14, General Code.

COLUMBUS, OHIO, December 19, 1935.

HON. FRANK WEST, *Registrar, Bureau of Motor Vehicles, Columbus, Ohio.*

DEAR SIR:—I am in receipt of your communication which reads as follows:

“Directing your attention to Amended Senate Bill No. 67 and especially to the last sentence in section 4 thereof or in section 6298-4 of the General Code, I kindly request your opinion on this question, to-wit:

If the Registrar of Motor Vehicles issues an order of revocation in accordance with the provisions of said law and the defendant should appear at any time after the said issuance of revocation and prior to the expiration of one year from the date thereof and file proof of his ability to respond in damages, can the registrar accept same and suspend or revoke his said order?"

The Financial Responsibility Law comprises Sections 6298-1 to 6298-25 both inclusive, General Code.

Section 6298-3, General Code, provides that the trial court must forward a certified copy of the conviction or judgment to the Registrar of Motor Vehicles whenever it passes a sentence or imposes a fine upon a person for any of the offenses set forth in Section 6298-1 (a) or renders a final judgment which remains unsatisfied and not stayed, as set forth in Section 6298-1 (b).

Section 6298-4, General Code, provides that upon receipt of such information from the trial court, the *Registrar of Motor Vehicles* shall serve by registered mail a notice requiring such person to show cause why his right and privilege of operating a motor vehicle upon the public highways should not be revoked. This section then provides:

"* * * Unless, prior to the expiration of thirty (30) days from the date of such notice, such person shows to the satisfaction of the registrar that there is no authority herein to make such an order, or unless, within said period of time, such person shall have satisfied the registrar of his ability to respond in damages, as hereinafter set forth, the registrar shall issue an order revoking and terminating such person's right and privilege of operating a motor vehicle upon the public roads and highways of this state, his license, certificate, or permit to operate a motor vehicle, and all certificates of registration issued for his motor vehicles. *Such order shall, unless vacated, modified, or reversed, as provided in this act, remain in full force and effect for a period of one year from the date thereof,* and while such order is in force, no license, certificate, or permit to operate a motor vehicle, either as chauffeur or otherwise, nor any certificate of registration for a motor vehicle, shall be issued to such person." (Italics the writer's).

With reference to the language, "Such order shall, unless vacated, modified, or reversed, as provided in this act, remain in full force and effect for a period of one year from the date thereof", the only sections of the law providing for vacation, modification or reversal are the following sections:

Sec. 6298-14:

“Within ten days after any order other than a final order, has been issued by the registrar of motor vehicles, any person affected by such order may apply to the registrar to vacate and/or modify such order and for a rehearing with respect to any matter determined in said proceedings and specified in the application for rehearing, and the registrar shall hold such rehearing on such matters if ground therefor appears on the face of the application. Such application shall set forth specifically the ground upon which the applicant considers such order to be unreasonable, improper, or unlawful, and no party shall in any court urge or rely on any ground not set forth in said application. Any application for vacation, and/or modification, and rehearing shall suspend the registrar’s order until such application is finally disposed of by the registrar of motor vehicles. Any application for rehearing shall be promptly and expeditiously disposed of by the registrar. An order denying such application shall be a final order of the registrar.”

Sec. 6298-17:

“A final order made by the registrar may be reversed, vacated, or modified by the court of common pleas of Franklin County, or of the county in which the party affected by the order resides, if upon consideration of the record before it, such court is of the opinion that the final order of the registrar of motor vehicles was unlawful.”

Sec. 6298-18:

“A proceeding to obtain such reversal, vacation, or modification shall be by petition in error filed on or before the expiration of thirty days from the date of entry of such final order. The petition in error shall be brought in the name of the party complaining of such final order, shall set forth the errors complained of, and the registrar shall be named as defendant in error. On the filing of said petition in error, unless waived, a summons in error shall issue and be served as in other cases.”

A reading of the entire act fails to reveal any authority for the Registrar of Motor Vehicles, after issuing an order of revocation, to revoke or suspend such order, except in accordance with Section 6298-14, General Code, quoted supra. The Registrar of Motor Vehicles, like other public officers, has those powers and those only expressly given to him by statute and those necessarily implied from such express statutory powers.

State ex rel. vs. Commissioners, 8 N. P. (n. s.) 231, 20 O. D. (N. P.) 879; affirmed *Ireton vs. State ex rel.*, 12 C. C. (n. s.) 202; 21 O. C. D. 212, 412; affirmed without opinion in *Ireton vs. State*, 81 O. S. 562; *State ex rel. vs. Kraft*, 19 O. A. R. 454, 456; *Peter vs. Parkinson, Treas.* 83 O. S. 36, 49; *Jones, Auditor, vs. Commissioners of Lucas County*, 57 O. S. 189; *Elder vs. Smith, Auditor et al.*, 103 O. S. 369, 370; *State ex rel. Copeland vs. State Medical Board*, 103 O. S. 369, 370; *Civil Service Commission vs. State, ex rel.*, 127 O. S. 261.

Consequently, in view of this well established rule of public law, it is my opinion, in answer to your inquiry, that the Registrar of Motor Vehicles does not have authority, after issuing a valid order of revocation, to suspend or revoke such order, except in accordance with the provisions of Section 6298-14, General Code.

Respectfully,

JOHN W. BRICKER,

Attorney General.

5022.

PROBATE COURT — EXECUTORS AND ADMINISTRATORS
NOT REQUIRED TO PRODUCE CERTIFICATE SHOWING
ALL PERSONAL PROPERTY TAXES PAID WHEN.

SYLLABUS:

Under section 10509-176, General Code (116 O. L. 401), effective September 2, 1935, the probate court may not legally require that executors or administrators, in filing their final account, produce a certificate from the county treasurer and county auditor showing that all returns for personal property taxation have been made and that all personal property taxes charged against the estate have been paid.

COLUMBUS, OHIO, December 19, 1935.

HON. GEORGE N. GRAHAM, *Prosecuting Attorney, Canton, Ohio.*

DEAR SIR:—Acknowledgment is made of your recent communication, which reads:

“Our probate judge, auditor and treasurer would like to have an opinion on the following: