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1. STATUTE AMENDED AND REPEALED — TEMPORARY ACT OF GENERAL ASSEMBLY—UPON EXPIRATION OF TEMPORARY LAW WILL NOT BE REVIVED—REQUIREMENT — SPECIFIC LEGISLATION — FULL TEXT OF LAW TO BE REVIVED—ARTICLE II, SECTION 16, CONSTITUTION OF OHIO.
2. SECTIONS 6290, 6292, 6309-2, 7250-1 THROUGH 7250-4 G. C.—AM. SUB. H. B. 267, 99 G. A.—WILL EXPIRE JUNE 30, 1953.
3. SECTIONS REPEALED BY AM. SUB. H. B. 267, 99 G. A. WILL NOT BE REVIVED—PROVISIONS IN ABSENCE OF NEW LEGISLATION WILL NOT BE IN EFFECT—MOTOR VEHICLES—ANNUAL TAX.

## SYLLABUS:

1. Under the provisions of Section 16 of Article II of the Ohio Constitution, a statute which has been amended and repealed by a temporary Act of the General Assembly, will not, upon the expiration of such temporary law, be revived except by specific legislation setting forth the full text of the law sought to be revived.

2. The present sections of the General Code, 6290, 6292, 6309-2, 7250-1, 7250-2, 7250-3 and 7250-4 as enacted by Amended Substitute House Bill No. 267, of the 99th General Assembly, will expire as of June 30, 1953.

3. Upon the expiration as of June 30, 1953, of the above listed sections of the General Code, the sections that were in existence prior to the passage of Amended Substitute House Bill No. 267, of the 99th General Assembly, and which were repealed by that Act, relating to motor vehicles and including provision for an annual tax on motor vehicles, will not be revived and their provisions, in the absence of new legislation, will not be in effect.

Columbus, Ohio, January 14, 1953

Hon. R. E. Foley, Registrar, Bureau of Motor Vehicles  
Columbus, Ohio

Dear Sir:

I have before me your communication requesting my opinion and reading as follows:

“Amended Substitute House Bill No. 267 relating to the regulation of trucks, trailers and other commercial vehicles, passed

by the 99th General Assembly, amended Sections 6290, 6292, 6309-2 and 7250-1 and enacted supplemental Sections 7250-2, 7250-3 and 7250-4 of the General Code.

“There is a provision in this act stating that this act shall be effective until June 30, 1953.

“The act also repealed the then existing Sections 6290, 6292, 6309-2 and 7250-1 of the General Code.

“Your opinion is respectfully requested on the following:

- “1. Do the present sections of the General Code, 6290, 6292, 6309-2, 7250-1, 7250-2, 7250-3 and 7250-4, expire as of June 30, 1953?
- “2. If the sections of the General Code referred to in question number 1 expire as of June 30, 1953, will the sections in the General Code that were in existence prior to passage of this act be in effect, and, specifically is the old tax rate on motor vehicles reinstated?”

The sections of the Code amended by House Bill 267 referred to in your letter, relate to the regulation of trucks, trailers and other motor vehicles. Sections 6290, 6292 and 6309-2, of the General Code, which are amended by the Act form a part of Chapter 21, Title II, Part Second, of the General Code, dealing especially with motor vehicles, and have to do with the levy of annual license taxes on such vehicles.

Section 7250-1, General Code, which is also amended by said Act, contains penalties for violation of the provisions of the law relating to the operation of motor vehicles on the highways.

The Act in question also enacts among others, certain new sections designated as Sections 7250-2, 7250-3, and 7250-4, of the General Code. Section 7250-2 prescribes the penalty for issuing false bills of lading as to weight. Section 7250-3, requires rear wheel flaps on trucks, and Section 7250-4, requires notification of certain violations of the traffic laws to be given by an arresting officer to the person or corporation owning the vehicle unlawfully operated, and also to the Public Utilities Commission and the Superintendent of the State Highway Patrol.

Existing Sections 6290, 6292, 6309-2 and 7250-1, General Code, as formerly in force, are by Section 3 of the new Act, Amended Substitute House Bill #267, repealed.

Section 2 of said Act reads as follows :

“This Act shall be effective until June 30, 1953.”

We have, therefore, a series of statutes long in force, which have been expressly repealed in the process of amendment. We have also several new statutes, and the Act which has created these changes is by its own terms to expire on June 30, 1953. This brings us to the gist of your question, to wit, what will be the status of the law relative to these features of motor vehicle regulations on June 30, 1953, assuming that no new legislation is enacted in the meantime?

I find in authorities on statutory construction statements indicating that the operation of a statute may be *suspended* by an Act which, by its terms, is to be temporary. It is said in Sutherland on Statutory Construction, page 516 :

“The suspension of a statute is the temporary rescission of a valid legislative enactment by the execution of a later statute which is to prevail during its limited operation. When a suspensory statute specifically refers to and declares the suspension of a statute, the later enactment takes precedence over the designated enactment during its effective operation. Likewise, when a later statute, limited in time of operation, prescribes the controlling law while it is in force upon a subject previously controlled by a statute of permanent validity and operation, a suspension is achieved by implication at the consummation of the later enactment. \* \* \*”

This principle, however, appears to me to apply only when the legislative intention is clear, either by express statement or by necessary inference that what is styled by the author, “a statute of permanent validity and operation” is to be merely *suspended* in whole or in part for a limited period.

I can find no evidence in the legislation here under consideration of an intention to suspend the operation of these laws as they theretofore existed. The formerly existing sections, as already pointed out are expressly and unequivocally repealed. This course of legislative procedure is specifically required by our Constitution. Section 16 of Article II, of the Constitution contains the following provision :

“No bill shall contain more than one subject, which shall be clearly expressed in its title, and no law shall be revived, or

amended unless the new act contains the entire act revived, or the section or sections amended, *and the section or sections so amended shall be repealed.*" (Emphasis added.)

The repeal of a statute absolutely destroys it. Our Supreme Court in the case of *Friend v. Levy*, 76 Ohio St., 26, used this language:

"The general rule is that when an act of the legislature is repealed without a saving clause, it is considered, except as to transaction past and closed, as though it had never existed (*Lewis' Sutherland on Statutory Construction, Section 282*), \* \* \*"

There is some authority to the effect that the repeal of a repealing statute operates to revive the original enactment. On this subject it is said by *Sutherland* at page 519:

"Under the common law rules of interpretation, the repeal of a repealing statute operates to revive the original enactment where the repeal of the repealing statute is accomplished by express provision without additional legislation upon the subject matter. \* \* \*"

It is manifest that this rule of the common law may be abrogated by constitutional provision, and that appears to be precisely what our constitution has done. The following from *Crawford on Statutory Construction*, page 655, is pertinent:

"Constitutions sometimes provide that no act shall be revived simply by reference to title. Where such a provision exists, in order to revive the repealed act, that portion sought to be revived must be re-enacted and published at length, or set out at length in the reviving act, as in the case of new legislation. \* \* \*"

Accordingly, it seems manifest that under the constitutional provision which I have quoted, there could be no revival of the original statutes by a repeal of the temporary law, unless the repealing statute sets forth the entire text of the law which is sought to be revived. This being so, it is even more clear that under our Constitution the mere expiration of the life of the temporary law here under consideration could not possibly have the effect of reviving the statute which it has repealed.

Accordingly, in specific answer to your questions it is my opinion:

1. The present sections of the General Code, 6290, 6292, 6309-2, 7250-1, 7250-2, 7250-3 and 7250-4 will expire as of June 30, 1953.

2. Upon the expiration as of June 30, 1953, of the above listed sections of the General Code, the sections that were in existence prior to the passage of amended Substitute House Bill 267 of the 99th General Assembly, will not be revived and their provisions, in the absence of new legislation, will not be in effect.

Respectfully,

C. WILLIAM O'NEILL  
Attorney General