

for transfers of territory to the end that the best interests of the schools may be conserved, it may be said that the statute contains authority for transferring territory from a city or exempted village school district to a contiguous county school district upon the passage of a resolution by the city or exempted village board of education by a majority vote of its full membership, offering to transfer said territory, which offer is thereafter accepted by the board of education of the county school district to which the offer is made.

This seems to have been the view of the Attorney General in 1921. Note his opinion published in the reported Opinions of the Attorney General for that year at page 857. In this 1921 opinion other phases of the question were considered and the power to make a transfer of territory from a city or exempted village district apparently was taken for granted; at least the possibility of the non-existence of such power was not considered. See also Opinions of the Attorney General for 1924, page 721.

It seems to have been the general policy of our school laws, as stated by the Supreme Court in the case of *Canton Union School District vs. Meyer, et al., supra*, to provide for changes in the boundaries of school districts for the good of the school system generally, and the history of the school laws shows this policy to have been consistently followed for a great many years, with the exception of the few years intervening from 1914 to 1919, and while the language of Section 4696, General Code, as amended in 1919, does not definitely and expressly extend to boards of education of city and exempted village school districts the power to transfer territory from the district, the language of the statute is susceptible of that meaning, and I believe indicates a legislative intent to provide for those transfers which had apparently been overlooked upon the adoption of the School Code of 1914. Having thus remedied a situation theretofore existing, I do not believe that the change in the language upon the amendment of the statute in 1921 indicated an intent to remove the power which had at least been inferentially extended in 1919.

I am therefore of the opinion, upon a reconsideration of this matter, that the conclusions reached in Opinion No. 1377 should be modified to conform to the conclusions set forth herein.

Respectfully,  
GILBERT BETTMAN,  
*Attorney General.*

1586.

CHAUFFEUR'S FEE—NOT SUBJECT TO QUARTERLY REDUCTION—  
REGISTRATION NOT RENEWABLE EACH YEAR.

SYLLABUS:

*The fee provided in Section 6302, General Code, which shall accompany an application for registration as a chauffeur is not subject to reduction depending upon the time of year when such application is made, and such registration need not be renewed from year to year.*

COLUMBUS, OHIO, March 5, 1930.

HON. CLARENCE J. BROWN, *Secretary of State, Columbus, Ohio.*

DEAR SIR:—Your letter of recent date reads as follows:

"The fee for chauffeur's license set up in Section 6302 is \$3.00. Information is requested as to whether or not this fee is subject to the same quarterly reduction as commercial cars provided for in Section 6295."

Section 6302, General Code, to which you refer, after referring to the application for registration which is required to be filed by a person operating a motor vehicle as chauffeur, provides:

"\* \* \* Such said application for registration as chauffeur of a motor bicycle, motorcycle or motor tricycle shall be accompanied by a registration fee of one dollar, and such said application for registration as chauffeur of any other motor vehicle shall be accompanied by a registration fee of three dollars."

Section 6294, General Code, relates to the application for registration of a motor vehicle by the owner thereof, and provides that such application shall be annual. Section 6294-1, General Code, enacted in 1915, provides that upon the transfer of ownership of a motor vehicle, the registration of the motor vehicle shall expire and it shall be the duty of the original owner to notify the Secretary of State of the name and address of the new owner. The section further provides, among other things, that the number plates shall be removed upon transfer of ownership. Section 6295, General Code, also refers to this registration tax of motor vehicles and provides a quarterly reduction in the amount of tax which shall be due, in the case of a commercial car, depending upon the time of the year the application for registration is made by the owner thereof. Section 6296 provides as follows:

"Applications of chauffeurs shall be made at such times and for such periods as are provided in the next two preceding sections for applications of owners."

This section was enacted in its present form in 100 O. L. p. 72.

In an opinion reported in Opinions of the Attorney General for the year 1914, Vol. 2, p. 1149, the syllabus reads:

"Provisions of Section 6295, General Code, whereby owners of motor vehicles applying for registration after September 1, 1914, are entitled to a reduction of the fees prescribed by Section 6294, General Code, are not applicable to automobile dealers, manufacturers or motorcycle chauffeurs."

The pertinent portion of the opinion as bearing upon your inquiry is contained on page 1151, where it is said:

"The language of Section 6296, whereby applications of chauffeurs for registration are required to be made at such times and for such periods as are provided in Sections 6294 and 6295 for applications of owners, certainly cannot be construed as having any reference whatever to the fees to be paid by chauffeurs, because the subject of fees to be paid by the latter for registration is not mentioned in said section."

While these sections of the law relating to motor vehicles have been changed numerous times since the rendition of this opinion, there have been no changes made by the Legislature such as to authorize a different conclusion than then expressed. It accordingly follows that this opinion is dispositive of your inquiry.

You do not inquire whether or not chauffeurs must be re-registered or renew their registrations each year, but this question is closely allied to the principles hereinbefore discussed and it is pertinent that it be considered herein.

In an opinion of this office appearing in Opinions of the Attorney General for 1923, Vol. 1, p. 391, it was held:

"Before a person may act as chauffeur of a motor vehicle under House Bill 474, he shall be registered as provided under Section 6302 and such registration shall be annual as required by Section 6297, G. C."

After quoting Section 614-97, General Code, as enacted in 1923, relating to the registration of operators of vehicles of motor transportation companies, the following language is used, appearing on page 394:

"It is to be noted that while the act mentioned a registration fee for chauffeurs, it does not say what that fee shall be.

As it is unlawful to operate a motor vehicle as chauffeur unless the application for registration has been made, it would be unlawful to act as chauffeur under House Bill 474 unless said act made an exception of the same.

The use of the words 'and no further fee shall be charged or examination required by the State or any local authority' raises a question as to whether it is meant by this that chauffeurs are registered once for all or whether they will be required to register annually.

It would be necessary, in order to hold that a chauffeur is registered for all times, that Section 6297, which provides for annual registration, be repealed by implication.

The law does not favor repeals by implication, and it is the duty of the person construing the law to construe the different sections of the statutes so as to make the whole of them harmonious.

The statute uses the following words:

'Upon the issuance of such certificate to drive, the applicant shall pay the registration fee and no further fee shall be charged or examination required by the State or any local authorities in the State.'

The only 'certificate to drive' that is issued by the Secretary of State is the 'certificate of registration', which is authorized by Section 6302 General Code, and the only 'fee' authorized to be charged is the fee of \$3.00 for registration of chauffeurs.

This certificate and fee is made an annual requirement by Section 6297 General Code."

In holding that the registration of chauffeurs shall be an annual registration, the then Attorney General predicated his opinion upon the then provisions of Section 6297, General Code. This section at that time provided:

"Each certificate, number, placard or badge issued by the Secretary of State to owners, manufacturers, dealers, or chauffeurs under this chapter, shall be for the period of one year beginning the first day of January."

After the rendition of this opinion, the next Legislature amended Section 6297 by the elimination of the word "chauffeurs", so that the section in its present form is as follows:

"Each certificate, number, placard or badge issued by the commissioner of motor vehicles to owners, manufacturers, or dealers, under this chapter, shall be for the period of one year beginning the first day of January."

There is now no provision that the badge issued by the commissioner of motor vehicles to chauffeurs shall be for the period of one year beginning the first day of January. It is true that a chauffeur's badge may be issued to an owner in the event the owner is operating a motor vehicle for hire. Such issuance is not, however, predicated nor dependent upon ownership, but upon operation.

If the conclusions reached in the opinion of 1923 are still valid and chauffeurs must re-register each year, the requirement must be predicated upon some other section or sections than 6297.

There are two sections in the General Code which are indicative of this requirement, viz., 6296, supra, and Section 6305. Neither of these sections has been amended since the enactment in 1923 of Section 614-97, providing in effect that the applicant for registration as a chauffeur shall be required to pay no fee other than the initial fee provided in Section 6302, General Code, and that such applicant shall be required to take no other examination than the first one therein required.

Section 6296, General Code, was assumed by the Attorney General in the 1914 opinion as applicable to applications of chauffeurs for registration as such. There may be some doubt as to the validity of this assumption, since the section might possibly be construed as conferring authority upon chauffeurs to make application for registration of motor vehicles. It is evidently contemplated that a certificate of registration of a motor vehicle may be issued to chauffeurs, since Section 6298, General Code, after providing for the issuance of such certificate of registration of a motor vehicle to the owner, provides that "it shall be the duty of every owner or chauffeur holding a certificate to notify the commissioner in writing of any change of residence of such person within ten days after such change occurs." It may be contended that if a certificate of registration of a motor vehicle may only be issued to an owner, it would only be held by an owner and not by a chauffeur. Conceding, however, that Section 6296 refers to chauffeurs' registrations as distinguished from the registration of motor vehicles, the section provides that such applications shall be made "for such periods as are provided in the next two preceding sections." At the time of the enactment of Section 6296, chauffeurs were required to be registered annually. The other section from which an inference may be drawn that chauffeurs are required to be registered annually, as hereinabove mentioned, is Section 6305, which provides as follows:

"Upon the registration of a chauffeur, the Secretary of State shall forthwith issue to him a badge of aluminum or other suitable metal, oval in form, and of a diameter of not more than two inches. Such badge shall have stamped thereon the words 'Registered chauffeur, number-----, State of Ohio-----' and the registration number shall be inserted thereon."

Here again is a section which has not been amended since 1908, and it was manifestly contemplated that there should be inserted after the word "Ohio" the year. However, the section contains no express provision as to what shall be contained in this space.

In view of the foregoing, it becomes evident that it is necessary to determine whether or not Section 614-97 and the amendment of Section 6297 shall govern, which sections are clearly indicative of the fact that annual registration is not

required, or whether Sections 6296 and 6305 are to govern, which are indicative of the fact that annual registration of chauffeurs is required.

Following the well established rule of statutory construction that under such circumstances as here under consideration the later enactments of the Legislature shall govern as indicative of the legislative intent, I have little difficulty in concluding that the General Code does not now require chauffeurs to be registered as such annually. These views are strengthened by consideration of the fact that there are no provisions for renewal or re-examination, and by the further consideration of the fact that a contrary construction must result in holding the provision of Section 614-97, herein discussed, to be absolutely void and in giving no effect to the amendment of Section 6297 by the 86th General Assembly.

It is accordingly my opinion that the fee provided in Section 6302, General Code, which shall accompany an application for registration as a chauffeur, is not subject to reduction depending upon the time of year when such application is made, and such registration need not be renewed from year to year.

Respectfully,

GILBERT BETTMAN,  
*Attorney General.*

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1587.

APPROVAL, BONDS OF GUERNSEY COUNTY—\$37,309.04.

COLUMBUS, OHIO, March 5, 1930.

*Industrial Commission of Ohio, Columbus, Ohio.*

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1588.

APPROVAL, BONDS OF VAN BUREN TOWNSHIP RURAL SCHOOL DISTRICT, MONTGOMERY COUNTY—\$500,000.00.

COLUMBUS, OHIO, March 5, 1930.

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

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1589.

APPROVAL, NOTES OF TORONTO VILLAGE SCHOOL DISTRICT, JEFFERSON COUNTY—\$100,000.00.

COLUMBUS, OHIO, March 5, 1930.

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