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I. A. Acker

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DRIVERS' LICENSES; EFFECT OF SUSPENSION OR REVOCATION

June 25, 1947

Hon. M. O. Thompson
Judge of County Court
Lisbon, North Dakota

Dear Judge Thompson:

Your letter addressed to the state highway commissioner, under date of June 20, 1947, has been referred by him to the attorney general for his consideration and reply.

In your letter to the state highway commissioner you say that you find that some judges of the district court, and some judges of the county court with increased jurisdiction, sometimes embody in their sentences, imposed upon persons found guilty of reckless driving or of driving motor vehicles while under the influence of intoxicating liquor, a provision giving such persons a limited or restrictive right to operate such vehicles after suspension or revocation of their drivers' license in order to avoid subjecting them to unnecessary hardships. You say that you have assumed that the right to operate a motor vehicle by a person whose license has been suspended or revoked can be reinstated only by filing the bond required by law, and you request the opinion of the state highway commissioner or of the attorney general as to the authority of courts in that regard.

Section 39-0465 of the 1943 Revised Code provides:

"It shall be unlawful for any person to commit any of the following acts:

1. To operate, or for the owner thereof knowingly to permit anyone to operate, upon a highway any motor vehicle the registration of which has been canceled or revoked, or which is not registered, or which does not have attached thereto and displayed thereon a number of plate or plates assigned thereto by the registrar for the current registration year, subject to the exemptions allowed in sections 39-0445, 39-0446, 39-0447***."

Section 39-0610 of the 1943 Revised Code provides that in case of conviction of any of the offenses mentioned, "the judge of the court in which the person has been convicted or has forfeited bail shall order the revocation, or, in his discretion, the suspension, of license of said person for not less than thirty days nor more than two years, and thereupon shall cause a certified copy of such order to be sent to the state highway commissioner. The commissioner immediately shall revoke or suspend the license as directed by such order and shall give notice thereof to such person by mail, and shall require such person forthwith to surrender and return his certificate of license to the commissioner."

Section 39-0611 of the 1943 Revised Code provides:

"When the period of revocation or suspension has expired, the certificate of license shall be returned to such person on request, unless it in the meantime has expired. The court, at any time before the period of revocation or suspension has expired, may order the reinstatement of such license, or the extension of the period of revocation or suspension within the above specified limits, and the commissioner shall reinstate or extend the period of revocation or suspension accordingly."

Section 39-0620 of the 1943 Revised Code provides:

"Any person who drives a motor vehicle upon the highways of this state while his license to operate a motor vehicle is suspended or revoked is guilty of a misdemeanor."

In view of the foregoing provisions of the 1943 Revised Code, it is obvious that when a person's license to operate a motor vehicle has been suspended or revoked that he cannot legally operate a motor vehicle upon the highways of this state until his operator's license and his motor vehicle

registration card and license plate have been restored and reinstated. In the light of the provisions of section 39-0611 of the Revised Code "the court at any time may order the reinstatement of such license." In other words, the court's order of revocation or suspension may be modified by shortening the time of suspension or revocation, or, on the other hand, upon showing cause, may extend the time of suspension or revocation. But I cannot find that under the statutes of this state a court has the authority or jurisdiction to permit anyone whose operator's license has been revoked or suspended to operate a motor vehicle during the period of revocation or suspension.

Section 39-1402 of the 1943 Revised Code provides:

"No person shall operate or permit any motor vehicle owned by him to be operated upon a highway if his operator's license, registration card, or other privilege to operate a motor vehicle has been suspended or revoked and the restoration thereof or the issuance of a new license or registration is contingent upon the furnishing of proof of financial responsibility."

Section 39-1403 of the 1943 Revised Code provides:

"Whenever the commissioner is required under a law of this state to suspend or revoke the operator's license of a person upon receiving a record of the conviction of such person for any offense under the motor vehicles laws of this state, the commissioner, upon receiving such record, without notice or a hearing, forthwith shall suspend or revoke the operator's license of such person. The commissioner also shall suspend any and all of the registration certificates or cards and registration plates issued for any motor vehicle registered in the name of the person convicted as owner unless such owner previously has given or immediately shall give and thereafter shall maintain, for a period of three years, proof of financial responsibility in the manner provided for in this chapter, with respect to each and every motor vehicle owned and registered by such person."

Under the provisions of section 39-1403, it is apparent that the state highway commissioner is required to suspend "any and all of the registration certificates or cards and registration plates" when a person's operator's license has been revoked or suspended and that such person's right to have his operator's license reinstated is contingent upon giving proof of financial responsibility. Until such proof has been furnished, such person does not have an operator's license. For section 39-1404 of the 1943 Revised Code provides:

"The suspension or revocation provided for in section 39-1403 shall remain in effect, and the commissioner shall not issue to such person any new license, nor reinstate any suspended license, nor register, in the name of such person, any motor vehicle, until permitted under the motor vehicle laws of this state and until such person gives proof of his financial responsibility in the future as is provided in this chapter."

Now, as I have already stated, no court has jurisdiction to permit anyone to operate a motor vehicle without an operator's license. The highway department cannot legally issue an operator's license until the requirements of the statutes have been met. And anyone who operates a motor vehicle without an operator's license is guilty of a misdemeanor.

Yours very truly,

NELS G. JOHNSON
Attorney General

By I. A. ACKER
Assistant Attorney General