

## Opinion No. 5

**Motor Vehicles—Driver's License—  
Revocation of Driver's License.**

**Held:** Revocation of a motor vehicle operator's or chauffeur's license upon such operator's conviction for failure to comply with the provisions of Chapter 210, Laws of 1939, is permanent, inasmuch as the legislative assembly has provided no maximum period as a limitation upon such revocation.

January 3, 1947.

Mr. John E. Henry  
Registrar of Motor Vehicles  
Deer, Lodge, Montana

Refer to: Official Opinion  
Vol. 22, No. 5

Attention: Mr. M. P. Trenne  
Deputy Registrar

Dear Mr. Henry:

You have inquired whether a person whose motor vehicle operator's or chauffeur's license is revoked in accordance with the provisions of paragraph (c), Section 3, Chapter 210, Laws of 1939, may have his license reinstated in any manner, or whether the revocation is final and conclusive.

Chapter 210 of the Laws of 1939 is a statute providing for the reporting of accidents upon the public highways of this state. Its purpose, as expressed in the title, is to provide for the duties of persons involved in such accidents, and to require such persons to furnish certain information and to make reports thereof. Study of the act reveals it is a legislative attempt to eliminate the dangerous and inhumane hit and run drivers from our highways. Section 3 of the act provides in paragraph (b) a penalty upon conviction for failure to comply with the act; and sub-paragraph (c) goes

on to provide protection for the public from drivers so convicted. Sub-paragraph (c) provides very simply:

"(c) The Registrar shall revoke the operator's or chauffeur's license of the person so convicted."

Many of the states of the nation provide for the revocation or suspension of a driver's license upon conviction for certain offenses involving motor vehicles. Likewise, the law of Montana in some instances provides for a "suspension" of drivers' licenses under certain circumstances. For example, Chapter 129 of the Laws of 1937 provides for suspension of a motor vehicle operator's or chauffeur's license upon conviction of certain offenses. Chapter 198 of the Laws of 1943 provides for the revocation of a driver's license upon conviction for operating a motor vehicle while in an intoxicated condition, or under the influence of intoxicating liquor or drug or narcotic—but the revocation is specifically of a limited nature, for the operator becomes eligible to apply for or receive a license to operate a motor vehicle when thirty days have elapsed from the date of the conviction and he has complied with the provisions of Chapter 129 of the Laws of 1937. (See Volume 21, Report and Official Opinions of the Attorney General, Opinion No. 207.)

Black's Law Dictionary, Third Edition, 1933, defines "revocation" to mean:

"The recall of some power, authority or thing granted."

The same text defines "suspension" to mean:

"The temporary stop of a right, of a law, and the like."

Our Court has said words used in a statute must be construed according to their ordinary meaning. (State ex rel. Dunn v. Ayers, 112 Mont., 120, 113 Pac. (2d) 818.)

Our legislative assembly obviously intended the suspension spoken of in Chapter 129, Laws of 1937, to be temporary, dependent upon the operator's giving proof of his ability to respond in damages for any liability thereafter incurred.

Similarly, the legislative intent to have the "revocation" mentioned in

Chapter 198, Laws of 1943, be temporary is evidenced by the inclusion therein of the thirty day provision. Thus, the failure of the legislature to provide a maximum or minimum period for revocation under the provisions of Chapter 210, Laws of 1939, indicates to me the legislative assembly must have intended the revocation therein provided to be permanent.

The legislature has power to make such a law. A license to operate an automobile is a privilege and not a contract, and may upon abuse be withdrawn. A license to use the highways does not abridge the police power of the State to make such highways safe. It has been held an automobile driver's license, since it is a privilege and not a property right, may be revoked in a proper case. (Law v. Commonwealth (Va.) (1938) 199 S. E. 516; City of Rochester v. Falk, 9 N. Y. Supp. (2d) 343; 2 Berry on Automobiles, 7th Ed., 253; Babbitt on the Law Applied to Motor Vehicles, 2nd Ed., 104)

The revocation of a license upon conviction for failure to report accidents is not a power of the State invoked for punishment of the person so convicted. In the cases and texts cited above it is emphasized such revocation is prescribed for the protection of the public who are placed in risk by a driver who has previously evidenced his inability or unwillingness to conform to the law. The case of Pritchard v. Battle, (Va.) (1941) 17 S. E. (2d) 393, has this to say:

"The right of a citizen to travel upon the public highways is a common right, but the exercise of that right may be regulated or controlled in the interest of public safety under the police power of the State. The operation of a motor vehicle on such highways is not a natural right. It is a conditional privilege, which may be suspended or revoked under the police power. The license or permit to so operate is not a contract or property right in a constitutional sense . . .

"Its purpose (revocation of a license to operate a motor vehicle) is not to punish the offender but to remove from the highways an oper-

ator who is a potential danger to other users."

It is therefore my opinion revocation of a motor vehicle operator's or chauffeur's license upon such operator's conviction for failure to comply with the provisions of Chapter 210, Laws of 1939, is permanent, inasmuch as the legislative assembly has provided no maximum period as a limitation upon such revocation.

Sincerely yours,  
R. V. BOTTOMLY,  
Attorney General.