

least fifty thousand dollars (\$50,000) since it was required to have that much surplus before it could be issued a certificate of authority.

In answer to your second question, the amendments to the Acts of 1935 which were enacted in 1955 were, by definition, prospective and not retroactive. The amendment of 1959 should also be considered to be prospective and not retroactive because it did not affect any vested rights of a previously incorporated company, or change the requirement of such company.

OFFICIAL OPINION NO. 24

April 30, 1964

Mr. Allen Nutting, Commissioner
Bureau of Motor Vehicles
401 State Office Building
Indianapolis, Indiana

Dear Mr. Nutting:

This is in response to your recent request for an Official Opinion with your question, which reads as follows:

“Do the laws of Indiana require the Bureau of Motor Vehicles to suspend all registration certificates and plates registered in the name of a person convicted of driving under the influence until such time as the Bureau receives proof of future financial responsibility (SR-22 owner’s policy) covering any motor vehicle registered in the name of the convicted driver?”

The answer to your question is to be found within the provisions of the “Indiana Motor Vehicle Safety-Responsibility and Driver Improvement Act” as found in the Acts of 1947, Ch. 159, as amended, as found in Burns’ (1952 Repl.), and (1963 Supp.), Section 47-1044 *et seq.*

Although amended without change in 1951, the original act in Burns’ 47-1045(n), *supra*, provides as a matter of definition:

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“The phrase ‘current driving license’ when used in this act or in any order or requirement of the commissioner or when used by the commissioner in the enforcement or administration of the act shall be deemed to mean and include every class and kind of license or permit which may be evidence of any privilege to operate a motor vehicle upon the public highways of this state and shall also include any privilege granted by such license.”

The 1963 amendment to Burns’ 47-1052, *supra*, has incorporated the Acts of 1939, Ch. 48, Sec. 52, as especially amended in 1963, by reference, and the same is currently found in Burns’ 47-2001(b) (2), *supra*; the legal effect of this is to include the latter section within the Indiana Motor Vehicle Safety-Responsibility and Driver Improvement Act.

Burns’ 47-2001(b) (2), *supra*, is the current statutory expression by the General Assembly with reference to suspensions arising out of a conviction for the offense of driving under the influence and reads as follows:

“(2) In all cases except those covered by sub-paragraph (1) above, any person who drives a vehicle upon any highway while under the influence of intoxicating liquor or narcotic or other habit-forming drugs shall be guilty of a misdemeanor and upon first conviction shall be imprisoned for not less than five [5] days nor more than six [6] months, or punished by a fine of not less than twenty-five dollars [\$25.00] nor more than five hundred dollars [\$500], or by both such fine and imprisonment; and the court shall recommend the suspension of the *current driving license* of the person so convicted for a determinate period of not less than two [2] months nor more than one [1] year and until such person shall give and maintain for a period of three [3] years proof of his financial responsibility in the manner specified in chapter 159 of the Acts of 1947, as amended, and the commissioner of motor vehicles shall thereupon comply with such recommendation, and should the court fail to make such mandatory recommendation, or should the court fail

to make the appropriate mandatory recommendation, the commissioner shall proceed to act in the matter as if such recommendation had been made by the court."

An initial consideration of Burns' 47-1045(n), *supra*, in relation to Burns' 47-2001(b) (2), *supra*, might tend to leave the impression that the Legislature has intended the term "current driving license" to encompass both the personal license of a motor vehicle operator and the registration certificates and/or license plates; however, the 1949 General Assembly in Chapter 274 of the Acts of that year undertook to substitute the term "current driving license" for the words "operators' or chauffeurs' license" in each of the sections of the Indiana Motor Vehicle Safety-Responsibility and Driver Improvement Act wherein the Commissioner of Motor Vehicles has been authorized to issue orders of suspension, such sections being Burns' 47-1046, 47-1047, 47-1048, 47-1052 (prior to the 1963 amendment) and 47-1081, *supra*.

At the time the 1949 General Assembly inserted the phrase "current driving license" as a matter of substitution in the foregoing enumerated sections, it did not eliminate from those sections a specific reference additionally stated therein to "registration certificates and registration plates"; nor did the 1949 amendment substitute the phrase "current driving license" so as to indicate that it encompassed the concept of "registration certificates and registration plates." Furthermore, at the time of the 1949 reconsideration of the "Indiana Motor Vehicle Safety-Responsibility and Driver Improvement Act" the Legislature did not change the language of certain other sections contained therein, such as Burns' 47-1049, 47-1053 and 47-1056, *supra*, each of which referred to, and still do refer to, "operators' or chauffeurs' license" and also "registration certificate or registration plates."

Therefore, each of the above-mentioned sections of Burns' which was under consideration by the 1949 General Assembly at the time that it applied the "current driving license" phrase to certain sections, today contains language referring to registration certificates and registration plates as well as reference to either a driver's license or "current driving license." Thus, despite the seemingly all-inclusive concept contained

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within the definition of "current driving license" in the original 1947 Act, as found in Burns' 47-1045(n), *supra*, the intent of the Legislature, as evinced by its action in the 1949 session, compels the conclusion that the General Assembly intended the term "current driving license," as used in Burns' 47-1052, *supra*, and its superseding section, 47-2001(b) (2), *supra*, with reference to suspensions following the conviction for the offense of driving while under the influence, to be applicable to drivers' license alone and not to registration certificates or plates.

It is, therefore, my Official Opinion in answer to your question that the law of Indiana, as contained within the "Indiana Motor Vehicle Safety-Responsibility and Driver Improvement Act" does not require the Bureau of Motor Vehicles or its Commissioner to suspend all registration certificates and plates registered in the name of a person convicted of driving under the influence. It is only the operators' or chauffeurs' license that the Bureau of Motor Vehicles or the Commissioner is required to suspend upon convictions of driving under the influence for the prescribed period, and until such time as the Bureau receives proof of future financial responsibility concerning any motor vehicle registered in the name of the convicted driver.

OFFICIAL OPINION NO. 25

May 8, 1964

Mr. William F. O'Neill
Director
Department of Veterans' Affairs
707 State Office Building
Indianapolis, Indiana

Dear Mr. O'Neill:

This is in response to your letter of April 1, 1964, wherein you request an Official Opinion. Your questions pertain to the right of county recorders to charge fees for the recording of discharge papers for veterans of the Armed Forces.

You have specifically cited the Acts of 1963, Ch. 204, Sec. 1, as found in Burns' (1963 Supp.), Section 49-1308a, and