



STATE OF KANSAS

Office of the Attorney General

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Curt T. Schneider
Attorney General

October 15, 1976

ATTORNEY GENERAL OPINION NO. 76-328

Mr. Benjamin J. Neill
General Counsel
Department of Revenue
State Office Building
Topeka, Kansas 66612

Re: Motor Vehicles--Financial Security--Registration
Reinstatement

Synopsis: An owner of a motor vehicle the registration of which has been revoked pursuant to K.S.A. 1975 Supp. 40-3118, as amended by ch. 221, § 1, L. 1976, may be entitled to reinstatement of that registration upon a showing that financial security was in force and effect on the date of the notice of intent to revoke was sent, pursuant to subsection (c), and in force and effect continuously thereafter, notwithstanding such coverage had lapsed for a period of time prior to the date of such notice.

* * *

Dear Mr. Neill:

You advise that a question has arisen concerning the revocation of vehicle registrations due to failure to maintain financial security pursuant to K.S.A. 1975 Supp. 40-3118, as amended by ch. 221, § 1, L. 1976.

Subsection (a) of that section states in pertinent part thus:

"No motor vehicle shall be registered in this state unless the owner at the time of registration, has in effect a policy of

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motor vehicle liability insurance covering such motor vehicle, as provided in this act, or is a self-insurer thereof. . . . [T]he term 'financial security' shall mean and include such policy or self-insurance. The director shall require that the owner certify that he or she has such financial security, and the owner of each motor vehicle registered in this state shall maintain financial security continuously throughout the period of registration."

Under subsection (c), whenever the director shall receive "prima facie evidence . . . that financial security covering any motor vehicle registered is not in effect," the director of vehicles shall notify the owner that at the end of fifteen days the registration may be revoked for a period of sixty days unless the owner demonstrates proof of financial security or requests a hearing.

Subsection (d) provides for reinstatement of registration thus:

"Whenever the registration of any motor vehicle shall be revoked pursuant to this section and the owner of such motor vehicle subsequently demonstrates to the satisfaction of the director that said owner had in effect, at the time notice was sent pursuant to subsection (c), financial security covering such motor vehicle and that financial security for such motor vehicle has been maintained continuously subsequent thereto, the director shall reinstate the registration for such motor vehicle and shall cause such owner's registration receipt and number plate to be returned. . . ."

You advise that the question has arisen whether, if there has been a lapse of financial security, the owner is entitled to reinstatement under subsection (d) if the owner demonstrates that at the time he or she received notice from the director pursuant to subsection (c), financial security was in force.

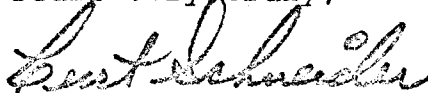
I agree with you that the apparent legislative intent was to require that financial security be in force at all times. Indeed, the requirement of continuous coverage is expressly stated in subsection (a). However, the legislature did not choose to enforce this

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requirement in subsection (d), for a vehicle owner may apply for reinstatement by demonstrating that at the time notice was received from the director, pursuant to subsection (c) of intent to revoke registration for lapse of financial security, the owner did in fact have financial security *then* in effect. Reinstatement is mandatory upon such a showing, notwithstanding it had been permitted to lapse prior thereto. So long as that security was in force on the date of the notice, and was continuously in force subsequent thereto, reinstatement is a matter of right, notwithstanding that the financial security was not in force continuously prior to the time of the notice.

Thus, I am constrained to conclude that a lapse of financial security prior to the date of notice given under subsection (c) is not a bar to reinstatement, so long as such financial security is shown to be in force on that date and continuously subsequent thereto until the application for reinstatement.

Yours very truly,



CURT T. SCHNEIDER
Attorney General

CTS:JRM:kj