

STATE OF KANSAS

Office of the Attorney General

1st Floor, State Capitol Bldg. (913) 296-2215 Topeka, Kansas 66612

Curt T. Schneider
Attorney General

March 10, 1977

ATTORNEY GENERAL OPINION NO. 77-104

Mr. Thomas Stockwell
City Attorney of Merriam
Suite 302 - Santa Fe Trail State
Bank Building
Highway 50 at Antioch
Shawnee Mission, Kansas 66202

Re: Municipal Courts--Procedure--Bond

Synopsis: K.S.A. 12-4301 does not authorize a municipal court to accept a motor vehicle operator's license issued by any state other than Kansas to secure the appearance of an accused person before such court.

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Dear Mr. Stockwell:

You request my opinion whether the Municipal Court of the City of Merriam may accept out-of-state driver's licenses in lieu of bond for appearances in Municipal Court for alleged violations of city ordinances.

K.S.A. 12-4301, of the Kansas Code of Procedure for Municipal Courts, provides in pertinent part thus:

"A person having the right to post bond for appearance shall, in order to do so, execute in writing a promise to appear at the municipal court at a stated time and place. Such appearance bond shall be in an amount as determined by the municipal judge, and may be secured by any one of the following

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methods, and when so secured, said person shall be released from custody.

The methods of securing the appearance of an accused person are as follows:

(a) Payment of cash, except that the municipal judge may permit negotiable securities or a personal check in lieu of cash.

(b) The execution of an appearance bond by a responsible individual residing within the state of Kansas, as surety with the approval of the municipal judge.

(c) A guaranteed arrest bond certificate issued by either a surety company authorized to transact such business within the state of Kansas, or an automobile club authorized to transact business in this state. . . ."


Under (b) of this section, in lieu of giving security according to the foregoing, the accused person may deposit a valid license to operate a motor vehicle in the state of Kansas. If the accused person fails to appear, the court is directed to notify the Division of Vehicles, and forward the operator's license to that agency. Upon receipt of the operator's license of any such person, the Division may suspend that person's privilege to operate a motor vehicle in this state until such person appears in the municipal court or final disposition is made of the charge and notice thereof is given to the Division, or for a period not exceeding six months, whichever is earlier.

A "valid license to operate a motor vehicle in the state of Kansas" may be issued only by the State of Kansas. Obviously, no other state has the authority to license persons to drive on the highways of this state. A state may grant the privilege of driving on its highways to persons who are licensed under the laws of other states, of course, as Kansas does. Thus, a nonresident person who holds a license from another state is exempt from the licensure requirements of this state, under K.S.A. 8-236, subject, of course, to limitations and qualifications not pertinent here. However, the license from such other state is not in and of itself a license to operate a motor vehicle on the roads and highways of this state. Necessarily, the operator's license to which K.S.A. 12-4301(d) refers is a Kansas operator's license, in my judgment. Accordingly, in my opinion K.S.A. 12-4301 does

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not authorize the Municipal Court to accept as security for the appearance of an accused person an operator's license which is issued by another state.

Yours very truly,


CURT T. SCHNEIDER
Attorney General

CTS:JRM:kj