



STATE OF KANSAS

Office of the Attorney General

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Curt T. Schneider
Attorney General

April 26, 1977

ATTORNEY GENERAL OPINION NO. 77-137

Mr. Terry J. Malone
Ford County Attorney
Dodge City, Kansas 67801

RE: Drivers licenses--habitual violator.

Synopsis: K.S.A. 8-286 requires that a person adjudged an habitual violator be deprived, for an indefinite period of time, of his or her privilege to drive on the public highways of the state. The privilege cannot be restored for three years, as provided in K.S.A. 8-288.

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Dear Mr. Malone:

You have inquired as to the meaning of K.S.A. 8-286, and in particular, whether the judge must revoke the license of an habitual violator for three years.

K.S.A. 8-286 provides that where the district or county attorney prosecutes an individual as an habitual violator and the court finds that the person is the same person named in the records certified to the district or county attorney, the court "shall find such person guilty of being an habitual violator...and shall direct such person by appropriate order not to operate a motor vehicle on the public highways in this state." The statute does not indicate that this order is to be for some specific time.

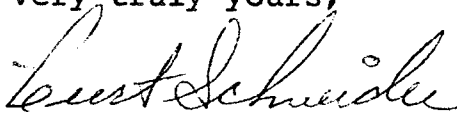
However, K.S.A. 8-288 provides that no license shall be issued to an habitual violator for three years, nor until the privilege to drive has been restored. This restoration is accomplished by a petition to the court at least three years after the issuance of the original order. The court may in its discretion grant the petition and restore the driving privilege.

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Thus, the two statutes appear to require that the habitual violator's privilege to drive be revoked for an indefinite period, with a possibility of restoration only after at least three years. There is no provision for modification of the order.

The statute does not refer to revocation of the driver's license itself, but rather to an order directing the person not to drive on Kansas highways. The court presumptively has the authority to compel surrender of his or her license as a means of enforcing its order which prevents an habitual violator from operating motor vehicles on the public highways of the state.

Very truly yours,



CURT T. SCHNEIDER
Attorney General

CTS/ERH/cgm