



STATE OF WEST VIRGINIA
OFFICE OF THE ATTORNEY GENERAL
CHARLESTON 25305

CHARLIE BROWN
ATTORNEY GENERAL

February 1, 1988

Lieutenant H. W. Richardson, II
Executive Director
West Virginia Commission on Drunk
Driving Prevention
725 Jefferson Road
South Charleston, West Virginia 25309

Dear Lieutenant Richardson:

By letter dated December 10, 1987, you have requested a formal opinion outlining the steps necessary for the restoration of driving privileges for individuals whose privileges have previously been revoked for driving under the influence of intoxicants (hereinafter referred to as "DUI"). A question similar to the one you pose was answered by this office in 1955, ___ Ops. Att'y Gen. 284 (September 14, 1955); however, the statutory law's evolution in the last 32 years has rendered our 1955 opinion obsolete. In 1955, the relevant statute, W. Va. Code § 17C-5-2, set six (6) months as the period of license revocation for conviction of first-time DUI. The earlier opinion of the Attorney General recognized that the mere passage of time purged the individual of his/her revocation; however, in 1981, the Legislature enacted Code 17C-5A-3, which added further requirements. The portion of Code 17C-5A-3 which deals with reissuance of a driver's license for first-time DUI states:

"(A) When the period of revocation is six months, the license to operate a motor vehicle in this State shall not be reissued until (i) at least ninety days have elapsed from the date of the initial revocation during which time the revocation was actually in effect, (ii) the offender has successfully completed the program, (iii) all costs of the program and administration have been paid, and (iv) all costs assessed as a result of a revocation hearing have been paid." Code 17C-5A-3(b) (2) (A).

The program referred to above is a safety and treatment program consisting of counseling and instruction designed to educate, train, and rehabilitate the offending driver. It is clear that, after a license revocation, a driver may not be

relicensed until the requirements of Code 17C-5A-3 have been met; however, this begs the question of whether a driver whose license has been revoked and has not been reissued by the Department of Motor Vehicles is driving with a revoked license or merely driving without a license.

For illustration purposes, let us suppose that Mr. John Doe of Anytown, West Virginia, had his driver's license revoked on December 31, 1987, under Code 17C-5A-2, a first-time DUI. By reading Code 17C-5A-2 alone, one may believe that Mr. Doe's revocation will expire on July 1, 1988; however, one must read all the statutes which relate to the same subject together. Shell v. Bechtold, ___ W. Va. ___, 338 S.E.2d 393 (1985). Code 17C-5A-3 and 17B-1-1 should be read in pari materia with Code 17C-5A-2. Code 17B-1-1 defines the term "revocation" as used in Chapter 17:

"Revocation--Revocation means that the driver's license and privilege to drive a motor vehicle on the public highways are terminated and shall not be renewed or restored, except that an application for a new license may be presented and acted upon by the department after the expiration of at least one year after the date of revocation, except as otherwise provided in section two [§ 17C-5-2], article five, chapter seventeen-C of this Code
* * *."

Hence, once his driver's license is revoked, both Mr. Doe's license and privilege to drive are ended permanently unless and until he completes the process outlined in Code 17C-5A-3. If Mr. Doe drives a vehicle in this state without completing the safety and treatment program, Mr. Doe is driving while his license is revoked and he is subject to the sanctions delineated in Code 17B-4-3.

In sum, a revoked driver's license remains revoked until the driver takes the necessary steps for reinstatement. If the revocation was for driving under the influence of alcohol, the steps necessary for reinstatement are found in Code 17C-5A-3.

Very truly yours,

CHARLES G. BROWN
Attorney General

By 
SCOTT A. ASH

Assistant