



OFFICE OF THE ATTORNEY GENERAL OF TEXAS
AUSTIN

GERALD C. MANN
ATTORNEY GENERAL

Hon. John A. Hamilton
District Attorney
Matador, Texas

Dear Sir:

Opinion No. C-1523

Re: Is it mandatory under the provisions of Art. 6687a, Sec. 16, Acts of 1937, to suspend a driver's license for a period of six months?

Your request for our opinion on the above stated question has been received by this Department.

Section 16 of Article 6687a, Vernon's Civil Statutes, provides:

"The license of any person shall be automatically suspended or revoked upon final conviction of any of the following offenses:

"....

"(2) Driving a motor vehicle while under the influence of intoxicating liquor or narcotic drugs...." (underscoring ours)

Article 779, Code of Criminal Procedure, provides the conditions under which the judgment will become final. Paragraph (c), Section 15 of Article 6687a, Vernon's Civil Statutes, provides:

"For the purpose of this Act the term, 'conviction', shall mean a final conviction. Also, for the purpose of this Act, a forfeiture of bail or collateral deposited to secure a defendant's appearance in court, which forfeiture has not been vacated, shall be equivalent to a conviction."

On September 23, 1939, this Department rendered an opinion, No. C-1595, written by Hon. Lloyd Armstrong,

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Assistant Attorney General, addressed to Homer Garrison, Jr., Director, Department of Public Safety, Austin, Texas, holding that:

"There is no mandatory suspension of driver's license in the case of conviction wherein a suspended sentence is given unless and until such judgment has become final by action of the court in keeping with the terms and provisions of Article 779, Code of Criminal Procedure."

For your convenience we enclose a copy of the above mentioned opinion.

In view of the above mentioned opinion and the authorities cited therein, you are respectfully advised that it is the opinion of this department that when a defendant has been convicted of driving a motor vehicle under the influence of intoxicating liquor, under Article 802 of the Penal Code and the sentence has been suspended, all the punishment, including the revocation of a defendant's license would be suspended under the judgment and that the defendant's license cannot be revoked under Article 6637a, Vernon's Revised Civil Statutes, where he has been convicted of driving a motor vehicle upon a public road while intoxicated and his judgment of conviction has been suspended.

Trusting that the foregoing fully answers your inquiry, we remain

Yours very truly

ATTORNEY GENERAL OF TEXAS

By *Ardele Williams*

Ardele Williams
Assistant

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ENCLOSURE

APPROVED OCT 13, 1939

Robert E. Taylor
ATTORNEY GENERAL OF TEXAS

Acting

