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1. MOTOR VEHICLE ACCIDENTS—PRIVATE PROPERTY, PARKING LOTS, DRIVEWAYS—FEDERAL OR OTHER LANDS OWNED BY GOVERNMENT—SITUATED WITHIN STATE—EXCLUSIVE JURISDICTION—ACCIDENTS MUST BE REPORTED TO REGISTRAR OF MOTOR VEHICLES—SECTION 4509.06 ET SEQ., RC.
2. FINANCIAL RESPONSIBILITY LAW — SECURITY DEPOSIT REQUIREMENTS APPLY TO DRIVER AND OWNER OF ANY MOTOR VEHICLE INVOLVED IN AN ACCIDENT —SITUS WHERE ACCIDENT OCCURRED—DRIVER AND OWNER OF MOTOR VEHICLE—SECTIONS 4509.06, 4509.12 ET SEQ., 4509.19, 4509.71 RC.

SYLLABUS:

1. Motor vehicle accidents occurring on or in private property, parking lots both public and private, private driveways, federal or other governmentally-owned lands situated within the state, whether or not the federal government has acquired exclusive jurisdiction over such lands, must be reported to the registrar of motor vehicles in compliance with Section 4509.06 et seq., Revised Code.

2. Subject to the exceptions listed in Sections 4509.19 and 4509.71, Revised Code, the "security deposit" requirements of Section 4509.12 et seq., Revised Code, part of the "Financial Responsibility Law," apply to the driver and owner of any motor vehicle which is involved in an accident on private, public or federal lands located within the state, whether or not such federal lands are under the exclusive jurisdiction of the United States, as well as to the driver and owner of a motor vehicle which is involved in an accident on the public highways or streets.

Columbus, Ohio, January 5, 1955

Hon. C. Ervin Nofer, Acting Registrar
Bureau of Motor Vehicles, Columbus, Ohio

Dear Sir:

I have before me your request for my opinion which reads as follows:

"Your attention is invited to the provisions of the Ohio Safety Responsibility Law, particularly to motor vehicle accidents and when the same are reportable under this law.

"It is understood that this type of accident means any accident involving a motor vehicle which results in damage to the property

of any persons in excess of \$100.00 or in bodily injury to or death of any person.

“In your judgment are these accidents reportable, if they occur on the federal or any other governmental owned property, private property, parking lots both private and public, and private driveways, or must they have occurred on public streets or highways?”

“Do the security requirements also apply in such cases?”

Section 4509.06, Revised Code, part of the “Financial Responsibility Law,” provides in material part as follows:

“The driver of any motor vehicle which is *in any manner involved in a motor vehicle accident* shall within five days forward a written report of the accident to the registrar of motor vehicles on a form prescribed by the registrar. * * *

(Emphasis added.)

“Accident” or “motor vehicle accident” is defined in Section 4509.02(J), Revised Code, as follows:

“‘Accident’ or ‘motor vehicle accident’ means *any* accident involving a motor vehicle which results in bodily injury to or death of any person, or damage to the property of any person in excess of one hundred dollars.” (Emphasis added.)

The above-quoted provisions omit reference to any special locality where the accident takes place. It is to be noted that the legislature does not employ the words “on a public highway or street” which words are occasionally employed in other code chapters treating with the general subject of operation of motor vehicles.

Turning to the “security deposit” sections of the “Financial Responsibility Act,” it is to be observed that the registrar of motor vehicles, after receiving the accident report, is to determine the amount of security which is sufficient to satisfy any judgments for damages resulting from the accident as may be recovered against each driver or owner involved in the accident. See Section 4509.12, Revised Code.

It is provided in Section 4509.11, Revised Code, that the security requirements of Sections 4509.12 to 4509.30, inclusive, of the Revised Code, “apply to the driver and owner of any motor vehicle which is in any manner involved in a motor vehicle *accident within this state.*” This language

is indicative of a legislative intent which is broad in scope as to the locale of the accident which is made the subject of a security deposit. It is true that the words "within this state" are not also employed in the *accident report* sections of the act which immediately precede the security deposit sections. Yet all of these sections are but a part of the same legislative enactment and should therefore be construed together so as to effect the legislative purpose. In addition, the security to be required is determined by the registrar, *after receiving the accident report*.

The words employed in the act then would seem to dictate the reporting and posting of security by the driver or owner of a motor vehicle involved in an accident anywhere within the state borders, whether such accident transpires *on* or *off* the public highways and streets.

The "Financial Responsibility Act" was enacted in Amended House Bill No. 168, ninety-ninth General Assembly, and became effective on March 1, 1953. The title of this act, as set out in 124 Ohio Laws, 563, is as follows:

"To enact sections 6298-1 to 6298-93 of the General Code, *to eliminate the reckless and irresponsible driver from the highways*, and to provide for the giving of security and proof of financial responsibility by persons driving or owning motor vehicles and to repeal existing sections 6298-1 to 6298-26, General Code."

(Emphasis added.)

The laudable purpose of the act, therefore, was two-fold, i.e. to afford protection to the uncompensated accident victim, and to promote greater highway safety. The legislature was undoubtedly aware of numerous instances of accidents resulting from a driver's negligence while driving on a parking lot, or while operating a motor vehicle on a public garage ramp, or in a private driveway. If part of the act's avowed purpose is to remove financially irresponsible and reckless drivers from the highways, it matters little whether the driver's recklessness is evidenced by his actions upon the public streets or highways, or by his actions upon private property. The law is aimed at securing compensation to one who is injured or suffers damage at the hands of a reckless driver, and if effect is to be given to the intention of the legislature as indicated by the clear, plain, or natural import of the language used, it becomes necessary to conclude that accidents are reportable even though they occur on private property. The security deposit requirements of the law also must be deemed applicable in these instances.

In interpreting the words "within this state" in such an unrestrictive manner, I am fortified in my conclusion by the fact that the legislature specifically enumerated certain exceptions to the security deposit requirement in Section 4509.19, Revised Code, and did not see fit to include an exception in the case of accidents which occur off the public highways. Exceptions, for example, are made in favor of a driver or owner involved in an accident in which no injury or damage was caused to the person or property of any one other than such driver or owner. Exceptions are made in the case of a driver or owner of a motor vehicle which at the time of the accident was parked, unless parked at a place where parking was at the time of the accident prohibited. Another exception made is in favor of the driver or owner of a motor vehicle which at the time of the accident was operated without his permission, express or implied, or was parked by a person who had been operating such motor vehicle without such permission. The list includes several more exceptions. I point this out only to show that the legislature was aware that *certain* situations called for exemption from the act's operation and it seems only logical to conclude that the legislature intended to recognize those exceptions and no others.

By way of contrast to the language employed in the "Financial Responsibility Law" I would call your attention to the fact that in the Uniform Traffic Code, Section 4511.20, Revised Code, regarding the reckless operation of vehicles, speaks in terms of endangering "the life, limb, or property of any person while in the lawful use of the *streets or highways.*" Presumably had the legislature intended so to restrict the application of the law here under consideration, it would have employed language to similar effect in the Financial Responsibility Law.

You have also directed my attention to accidents occurring on federal or "any other governmental owned property." Accidents occurring on state, county or city-owned property would seem to be clearly governed by what I have said earlier in this opinion, and accordingly should be reported.

A somewhat more difficult problem is presented in the case of accidents occurring on federally owned property. A consideration of the effect of the acquisition of exclusive federal jurisdiction over areas within the state may well begin with reference to Sections 159.03 and 159.04, Revised Code, which grant the State's consent to the acquisition by the United States of land required for government purposes. It is also provided that exclusive jurisdiction in and over any land so acquired is

thereby ceded to the United States "for all purposes except the service upon such sites of all civil and criminal process of the courts of this state."

A question of the effect of exclusive jurisdiction on the exercise of the State's police powers was the subject of consideration in Opinion No. 1877, Opinions of the Attorney General for 1952, page 720, addressed to the Superintendent of the State Highway patrol, the syllabus of which is as follows:

"Where exclusive federal jurisdiction has been obtained over lands within military reservation as provided in the 17th clause of Section 8, Article I, U. S. Constitution, in Section 255, Title 40, U. S. Code, and in Sections 13770, 13771 and 13772, General Code of Ohio, and where a permit, revocable in the discretion of the Secretary of War, has been granted under the provisions of Section 1348, Title 10, U. S. Code, 23 Stat. 104, for the construction by the state of a highway over and upon such lands, the responsibility for the enforcement of traffic regulations on such highway lies with the federal authorities, and the state authorities are without jurisdiction to enforce state traffic regulations thereon."

This holding does not in my opinion control the problem at hand. It will be noted that the 1952 opinion was concerned with the State's authority to exercise jurisdiction over a highway located upon federal lands. It was held that the United States had *exclusive* jurisdiction over acts taking place upon the federal land, even though the State had been granted a permit to construct a state highway over and upon said lands.

You inquire, on the other hand, whether accidents occurring on federal lands are required to be reported to the Registrar of Motor Vehicles under the "Financial Responsibility Law." As was pointed out earlier in this opinion, the policy of the statute is to remove the reckless and financially irresponsible driver from the state's highways, and the language employed being so broad, with no indication that accidents occurring within federally-acquired lands located within the state are to be excluded, it would seem that the statute's terms encompass the reporting of accidents occurring on federal property.

It would appear that when the legislature spoke of accidents "within this state" that phrase was intended to cover accidents occurring within the *territorial* or geographical *limits* of the state. Hence, federally-acquired lands located within the borders of the State of Ohio are "within this

state” in a geographical sense, though such lands might for many jurisdictional or legal purposes be considered *outside* the state.

It will be recalled that Section 159.04, Revised Code, reserves to Ohio jurisdiction over federally-acquired land for the purpose of “service upon such sites of all civil and criminal process of the courts of this state.” This is in itself a tacit recognition that lands acquired by the United States *remain within* the state, since service of process of the courts of Ohio might not in any event cross state lines.

In addition to this, it should be borne in mind that Congress itself has, by certain enactments specifically acknowledged that for some purposes at least, federally acquired land within a state is to be treated as though it were as fully within the state’s *territorial* limits as any other land within the state. Thus, in Section 105, Title 4, U. S. Code (61 Stat. 641), the Congress has consented to a state levy of sales or use taxes affecting federal areas within such state. Section 106, Title 4, U. S. Code (61 Stat. 644), recognizes the power of a state or taxing authority to levy and collect an income tax in any federal area “within such state to the same extent and with the same effect as though such area was not a Federal area.” These provisions negate any theory on the part of the *federal* government that federal reservations are territorial “islands.”

Assuming that the statute’s terms are broad enough to cover all territories within the state’s borders, federal or otherwise, the only real question is whether or not the state has the *power* to require the reporting of accidents on federal property.

The right to operate motor vehicles in public places is not a natural and unrestrained right, but a privilege subject to reasonable regulations in the interest of the public under the police power of the state. See 5 American Jurisprudence, Automobiles, Sec. 151, page 591. The state may reasonably require licenses as a condition precedent to the operation of an automobile on the streets and highways of the state. Section 4509.09, Revised Code, provides that the registrar may suspend the license of any person who fails to report an accident, as provided in Sections 4509.01 to 4509.78, inclusive, of the Revised Code, until the report has been filed. In addition, Section 4509.74, Revised Code, provides:

“No person shall fail to report a motor vehicle accident as required under the laws of this state.”

Section 4509.76, Revised Code, prohibits a person whose operating privilege has been suspended or revoked under Sections 4509.01 to 4509.78, inclusive, Revised Code, from driving upon the highway or knowingly permitting an automobile owned by him from being operated by others. Section 4509.99, Revised Code, provides penalties for violation of the foregoing code sections. Section 4509.17, Revised Code, also provides for suspension of license for failure to deposit security.

It should, therefore, be noted that the State of Ohio under the accident reporting provisions of the "Financial Responsibility Law" is not attempting to exercise jurisdiction over *actions* taking place upon federal reservations. There is no hampering of federal functions nor interference with the federal authorities' exclusive jurisdiction. The State, in attempting to remove the reckless and financially irresponsible driver from *its own highways*, in effect penalizes the *non-reporting* of the accident no matter where such accident occurs. The misdemeanor consists of an omission to act, and therefore the misdemeanor is not to be thought of as taking place upon federal property. In short, the State makes the reporting of the accident a condition precedent to the motorist's continued use, not of the highways within the federal reservation concerned, but of the highways of the state.

Accordingly, it is my opinion that:

1. Motor vehicle accidents occurring on or in private property, parking lots both public and private, private driveways, federal or other governmentally-owned lands situated within the state, whether or not the federal government has acquired exclusive jurisdiction over such lands, must be reported to the registrar of motor vehicles in compliance with Section 4509.06 et seq., Revised Code.

2. Subject to the exceptions listed in Sections 4509.19 and 4509.71, Revised Code, the "security deposit" requirements of Section 4509.12 et seq., Revised Code, part of the "Financial Responsibility Law" apply to the driver and owner of any motor vehicle which is involved in an accident on private, public or federal lands located within the state, whether or not such federal lands are under the exclusive jurisdiction of the United States, as well as to the driver and owner of a motor vehicle which is involved in an accident on the public highways or streets.

Respectfully,

C. WILLIAM O'NEILL
Attorney General