



ROLAND W. BURRIS
ATTORNEY GENERAL
STATE OF ILLINOIS

July 27, 1993

FILE NO. 93-018

CRIMINAL LAW AND PROCEDURE:
Supervision for Violation of
Mandatory Auto Insurance Law

Honorable Gregory B. Grigsby
State's Attorney, Christian County
101 South Main Street
Taylorville, Illinois 62568-2244

Dear Mr. Grigsby:

I have your letter wherein you inquire whether a person who is placed on supervision after he or she admits to a violation of section 3-707 of the Illinois Vehicle Code (Ill. Rev. Stat. 1991, ch. 95 1/2, par. 3-707; 625 ILCS 5/3-707 (West 1992)) must be ordered to pay a fine in an amount which is greater than \$500. For the reasons hereinafter stated, it is my opinion that because the conditions of supervision are governed by section 1005-6-3.1 of the Unified Code of Corrections (Ill. Rev. Stat. 1991, ch. 38, par. 1005-6-3.1; 730 ILCS 5/1005-6-3.1 (West 1992)), and not by section 3-707 of the Illinois Vehicle Code, a person who is placed on supervision

for a violation thereof may be fined in an amount less than \$500.

Section 3-707 of the Illinois Vehicle Code prohibits the operation of a motor vehicle which is not covered by liability insurance, and further provides:

" * * *

Any operator of a motor vehicle subject to registration under this Code who is convicted of violating this Section is guilty of a business offense and shall be required to pay a fine in excess of \$500, but not more than \$1,000. * * *" (Emphasis added.)

The disposition of supervision is authorized under section 1005-6-1 of the Unified Code of Corrections (Ill. Rev. Stat. 1991, ch. 38, pars. 1005-6-1; 730 ILCS 5/1005-6-1 (West 1992)), which provides, in pertinent part:

" * * *

(c) The court may, upon a plea of guilty or a stipulation by the defendant of the facts supporting the charge or a finding of guilt, defer further proceedings and the imposition of a sentence, and enter an order for supervision of the defendant if the defendant is not charged with a felony and having regard for the circumstances of the offense, and the history, character and condition of the offender, the court is of the opinion that:

(1) the offender is not likely to commit further crimes;

(2) the defendant and the public would be best served if the defendant were not to receive a criminal record; and

(3) in the best interests of justice an order of supervision is more appropriate than a sentence otherwise permitted under this Code.

* * *

(g) The provisions of paragraph (c) shall not apply to a defendant charged with violating Section 3-707, 3-708 or 3-710 of the Illinois Vehicle Code or a similar provision of a local ordinance if the defendant has within the last 5 years been:

(1) convicted for a violation of Section 3-707, 3-708 or 3-710 of the Illinois Vehicle Code or a similar provision of a local ordinance; or

(2) assigned supervision for a violation of Section 3-707, 3-708 or 3-710 of The Illinois Vehicle Code or a similar provision of a local ordinance.

The court shall consider the statement of the prosecuting authority with regard to the standards set forth in this Section.

* * *

Section 1005-6-3.1 of the Unified Code of Corrections provides, in part:

" * * *

(c) The court may in addition to other reasonable conditions relating to the nature of the offense or the rehabilitation of the defendant as determined for each defendant in the proper discretion of the court require that the person:

* * *

(2) pay a fine and costs;

* * *

(d) The court shall defer entering any judgment on the charges until the conclusion of the supervision.

(e) At the conclusion of the period of supervision, if the court determines that the defendant has successfully complied with all of the conditions of supervision, the court shall discharge the defendant and enter a judgment dismissing the charges.

(f) Discharge and dismissal upon a successful conclusion of a disposition of supervision shall be deemed without adjudication of guilt and shall not be termed a conviction for purposes of disqualification or disabilities imposed by law upon conviction of a crime. Two years after the discharge and dismissal under this Section, unless the disposition of supervision was for a violation of Sections 3-707, 3-708, 3-710, 5-401.3, 11-501, or 11-503 of the Illinois Vehicle Code or a similar provision of a local ordinance, or for a violation of Sections 12-3.2, 12-15 or 16A-3 of the Criminal Code of 1961, in which case it shall be 5 years after discharge and dismissal, a person may have his record of arrest sealed or expunged as may be provided by law. * * *

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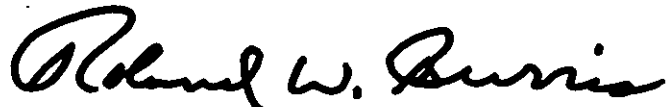
The specific references in sections 1005-6-1 and 1005-6-3.1 of the Unified Code of Corrections to section 3-707 of the Vehicle Code clearly demonstrate that the General Assembly intended that persons who violate section 3-707, and who meet the qualifications set forth therein, would be eligible for supervision. When a disposition of supervision is imposed under section 1005-6-1 of the Unified Code of Corrections, the incidents and conditions of the supervision are governed by the provisions of section 1005-6-3.1 of the Code, not by the section which defines the offense. A disposition of

Honorable Gregory B. Grigsby - 5.

supervision does not involve a conviction of the offense which has been alleged. Rather, the disposition is imposed prior to entry of any judgment, and, upon the defendant's successful compliance with the incidents of supervision, the charge against the defendant will be dismissed. Since the minimum fine prescribed in section 3-707 of the Illinois Vehicle Code, is applicable only to a person "who is convicted of violating" its provisions, and the disposition of supervision does not constitute a conviction, the fine is not required to be imposed in such cases. Subsection 1005-6-3.1(c) of the Unified Code of Corrections does, however, provide that the payment of a fine may be made a condition of supervision. The amount of the fine imposed, if any, is left to the proper discretion of the court.

Therefore, it is my opinion that when a person alleged to have violated section 3-707 of the Illinois Vehicle Code is placed on supervision, a fine in an amount of less than \$500 may be imposed as a condition thereof.

Respectfully yours,

A handwritten signature in cursive script, reading "Roland W. Burris".

ROLAND W. BURRIS
ATTORNEY GENERAL