

The facts of this opinion emphasize the need for appropriate legislation declaring the office to be vacant upon the death of the person elected to the office prior to his qualifying for the office and providing for a special election to fill the vacancy.

650203.1

FRANK J. KELLEY,  
*Attorney General.*

**MOTOR VEHICLES: Assessment of points.**

Abstracts of conviction for driving without a license, driving without a license in possession, driving in violation of restrictions imposed on a license, or, driving while license has been denied, suspended or revoked, as provided for under Sections 301, 311, 312, 904 and 905 of Chapters III and VIII of Act 300, P.A. 1949, as amended, should be forwarded under the provisions of Section 732, as amended, of said act to the division of driver and vehicle services in the office of secretary of state. Said division is required to assess and record points for these convictions under the provisions of Section 320a, as amended, of said act.

No. 4330

February 3, 1965.

Hon. James M. Hare  
Secretary of State  
The Capitol  
Lansing, Michigan

You have requested my opinion on two questions. The first is whether abstracts of conviction for driving without a license, driving without a license in possession, driving in violation of restrictions imposed on a license, or, driving while license has been denied, suspended or revoked, as provided for under Sections 301,<sup>1</sup> 311,<sup>2</sup> 312,<sup>3</sup> 904,<sup>4</sup> and 905<sup>5</sup> of Chapters III and VIII of the Michigan Vehicle Code being Act 300, P.A. 1949, as amended, should be forwarded to the department<sup>6</sup> under the provisions of Section 732, as amended, of said act.

Section 732<sup>7</sup> requires the forwarding to the department of an abstract of the court record of any conviction of violation of any provision of the act. That duty is placed upon the magistrate of a court not of record, and also on the clerk of a court of record. The only exception is for convictions involving the illegal parking or standing of a vehicle.

It follows that abstracts of conviction for driving without a license, driv-

<sup>1</sup> C.L.S. 1961 § 257.301; M.S.A. 1960 Rev. Vol. § 9.2001.

<sup>2</sup> C.L.S. 1961 § 257.311; M.S.A. 1960 Rev. Vol. § 9.2011.

<sup>3</sup> C.L.S. 1961 § 257.312; M.S.A. 1960 Rev. Vol. § 9.2012.

<sup>4</sup> C.L.S. 1961 § 257.904; M.S.A. 1960 Rev. Vol. § 9.2604.

<sup>5</sup> C.L.S. 1961 § 257.905; M.S.A. 1960 Rev. Vol. § 9.2605.

<sup>6</sup> Section 12 of the Michigan Vehicle Code states:

“‘Department’ means the division of driver and vehicle services created in the office of the secretary of state by the provisions of this act, acting directly or through duly authorized agents and employees.”

<sup>7</sup> C.L.S. 1961 § 257.732; M.S.A. 1960 Rev. Vol. § 9.2432.

ing without a license in possession, driving in violation of the restrictions imposed on a license, or, driving while license has been denied, suspended or revoked, as provided for under Sections 301, 311, 312, 904 and 905 of Chapters III and VIII of Act 300, P.A. 1949, as amended, should be forwarded under the provisions of Section 732, as amended, of said act to the division of driver and vehicle services.

Your second question is whether the division of driver and vehicle services is required to assess and record points for these convictions, under the provisions of Section 320a, as amended, of said act.

Section 320a, as amended,<sup>8</sup> reads in part:

“(1) The division of driver and vehicle services, within 10 days after the receipt of a properly prepared abstract, shall record the date of conviction and the number of points for each conviction based on the following formula:

\* \* \*

“(i) All other moving violations pertaining to the operation of motor vehicles reported under this section ..... 2 points.”

The division of driver and vehicle services is required to assess and record points for these convictions under the provisions of Section 320a, as amended, of the Michigan Vehicle Code.<sup>9</sup>

FRANK J. KELLEY,  
*Attorney General.*

650219.1

**SCHOOLS: Districts – Power to fix regular elections.**

The biennial spring state election having been abolished, the board of education of a third class school district, which had fixed its regular elections, to be held biennially at the same time as the biennial spring state elections, is without power to fix its regular election at the same time as the city election to be held in April of 1966.

No. 4411

February 19, 1965.

Hon. Stanley F. Rozycki  
State Senator  
Box 240  
Lansing, Michigan

You advise that the board of education of a third class school district had previously determined, in accordance with Sec. 107 of the School Code of 1955, to hold elections of members of the board of education at the same time that the biennial spring state election was held in the odd numbered years. You indicate further that the biennial spring state election has been abolished. Based upon these facts you ask the following question:

<sup>8</sup> Section 320a was last amended by Act 34, P.A. 1963; M.S.A. 1963 Cum. Supp. § 9.2020(1).

<sup>9</sup> O.A.G. No. 4302 issued to you April 9, 1964.