

TO BE PUBLISHED IN THE OFFICIAL REPORTS

OFFICE OF THE ATTORNEY GENERAL
State of California

EVELLE J. YOUNGER
Attorney General

OPINION	:	No. CR 78-35
of	:	<u>January 3, 1979</u>
EVELLE J. YOUNGER	:	
Attorney General	:	
John W. Carney	:	
Deputy Attorney General	:	

SUBJECT: DURATION OF SUSPENSION OR REVOCATION OF THE DRIVING PRIVILEGE—Suspension of the driving privilege shall be for one year, while revocation shall be for three years. In either case, the driving privilege will not be reinstated until the person gives proof of ability to respond in damages as defined in Vehicle Code section 16430.

The Honorable Alan Mateer, Chief Counsel, California Department of Motor Vehicles, has requested an opinion from this office on the following question:

When does the suspension of the driving privilege under Vehicle Code section 13352, subdivision (c), or the revocation of that privilege under Vehicle Code section 13352, subdivision (e), end?

The conclusion is:

The suspension¹ or revocation² ends only when both the time for suspension or revocation stated by the section has expired, and the licensee has filed proof of ability to respond in damages as defined in Vehicle Code section 16430.³

ANALYSIS

Vehicle Code section 13352 states in pertinent part:

“The department shall, . . . immediately suspend or revoke the privilege of any person to operate a motor vehicle upon receipt of a duly certified abstract of the record of any court showing that the person has been convicted of driving a motor vehicle while under the influence of intoxicating liquor or any drug, or while under the combined influence of intoxicating liquor and any drug, or in violation of subdivision (c) of Section 23105, or upon receipt of a report of a judge of the juvenile court, a juvenile traffic hearing officer, or a referee of a juvenile court showing that the person has been found to have committed the offense of operating a vehicle while under

¹ Vehicle Code section 13102 states:

“When used in reference to a driver’s license, ‘suspension’ means that the person’s privilege to drive a motor vehicle upon a highway is temporarily withdrawn. The department may, before terminating any suspension based upon a physical or mental condition of the licensee, require such examination of the licensee as deemed appropriate in relation to evidence of any condition which may affect the ability of the licensee to safely operate a motor vehicle.”

² Vehicle Code section 13101 states:

“When used in reference to a driver’s license, ‘revocation’ means that the person’s privilege to drive a motor vehicle is terminated and a new driver’s license may be obtained after the period of revocation.”

³ Vehicle Code section 16430 states:

“Proof of ability to respond in damages when required by this code means proof of ability to respond in damages resulting from the ownership or operation of a motor vehicle and arising by reason of personal injury to, or death of, any one person, of at least fifteen thousand dollars (\$15,000), and, subject to the limit of fifteen thousand dollars (\$15,000) for each person injured or killed, of at least thirty thousand dollars (\$30,000) for such injury to, or the death of, two or more persons in any one accident, and for damages to property (in excess of two hundred fifty dollars (\$250)), of at least five thousand dollars (\$5,000) resulting from any one accident. Proof of ability to respond in damages may be given in any manner authorized in this chapter.”

the influence of intoxicating liquor or any drug, or while under the combined influence of intoxicating liquor and any drug, or in violation of subdivision (c) of Section 23105. The suspension or revocation shall be as follows:

“.....

“(c) Upon a second conviction or finding of driving a motor vehicle while under the influence of intoxicating liquor or any drug, or under the combined influence of intoxicating liquor and any drug, or in violation of subdivision (c) of Section 23105, or any combination of such convictions or findings within five years, such privilege shall be suspended for one year and shall not be reinstated unless and until such person gives proof of ability to respond in damages as defined in Section 16430.

“.....

“(e) Upon a third or subsequent conviction or finding of driving a motor vehicle while under the influence of intoxicating liquor or any drug, or under the combined influence of intoxicating liquor and any drug, or in violation of subdivision (c) of Section 23105, or any combination of such convictions or findings within seven years such privilege shall be revoked and shall not be reinstated for a period of three years and until such person files proof of ability to respond in damages as defined in Section 16430.”

In construing a statute, the objective is to ascertain the intention of the Legislature so the purpose of the law may be given effect. (*Tripp v. Swoap* (1976) 17 Cal. 3d 671.) The first step is to examine the language of the statute to determine whether the words used unequivocally express the Legislature’s intent. If no ambiguity, uncertainty, or doubt about the meaning of the statute appears, the provision is to be applied according to its terms without further construction, and if ambiguity is found, the statute is to be interpreted in the light of the objective sought to be achieved by it, as well as the evil sought to be averted. (*In re Andrews* (1976) 18 Cal. 3d 208.)

The first part of your question asks when a suspension of the driving privilege under Vehicle Code section 13352, subdivision (c), ends. The operative language of that statute provides:

“ . . . such privilege shall be suspended for one year and shall not be reinstated unless and until such person gives proof of ability to respond in damages as defined in Section 16430.”

We find no ambiguity regarding the duration of the suspension in this language. The suspension ends either when the one year is up or when the person gives proof of ability to respond in damages, whichever is later. The statute states the termination of the suspension by reference to alternative events but this does not make the language ambiguous. The language states that unless proof of ability to respond in damages has been filed within one year of the initial suspension, the suspension is not terminated by reinstatement “unless and until” such proof is given. This provides a clear direction that giving proof of ability to respond in damages is to take precedence over the one year language in determining the duration of the suspension.

Similarly, we find no ambiguity in the language of Vehicle Code section 13352, subdivision (e), regarding the duration of a revocation. The operative language of the provision states:

“ . . . such privilege shall be revoked and shall not be reinstated for a period of three years and until such person files proof of ability to respond in damages as defined in Section 16430.”

This clearly states that the revocation ends either when the three years is up or when the person files proof of ability to respond in damages, whichever is later. The words “and until” make it clear that filing proof of ability to respond in damages is to take precedence over the three year language in determining the duration of the revocation.

The legislative purpose that a suspended driving privilege is not to be reinstated until proof of ability to respond in damages is underscored in Vehicle Code section 16484 which provides:

“ . . . whenever any evidence of proof of ability to respond in damages filed by any person under the provisions of this code no longer fulfills the purpose for which required, the department shall require other evidence of ability to respond in damages as required by Article 1 (commencing with Section 16430) *and shall suspend the privilege of the person to operate a motor vehicle upon a highway. The suspension shall remain in effect until adequate proof of ability to respond in damages is filed with the department by the person.*” (Emphasis added.)
