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Opinions of the Attorney General

Alvin C. Strutz

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OPINIONS OF THE ATTORNEY GENERAL

February 8, 1952

Mr. Ronald N. Davies
Grand Forks, North Dakota

Dear Mr. Davies:

Re: Chapter 256, 1951 Session Laws.

Your letter of February 5, 1952, to E. T. Christiansen, Attorney General, has been referred to the undersigned as Special Assistant Attorney General for the Highway Department for reply.

You request an opinion as to whether paragraph 5 of the above Chapter, means that if both drivers or owners of motor vehicles involved in an accident fail to notify the Highway Commissioner in writing of their intention to make a claim against the other within 60 days of the accident, whether such failure to so notify the Highway Commissioner of intent to commence an action relieve both parties of the provisions of suspension and security?

Chapter 256 provides that the requirement as to security and suspension do not apply — 5.

“To the driver or owner of a motor vehicle involved in an accident, unless the person or corporation injured or damaged in such accident shall within sixty (60) days after the accident file with the Commissioner a Notice in writing signifying an intention to make a claim against such owner or driver, because of damage sustained in such accident.”

It is my opinion that where A and B are involved in an accident, and both A and B suffer damages, and both A and B claim the other person was responsible, that both A and B must make and file with the Commissioner a Notice in writing signifying an intention to make a claim against such owner or driver for the damage which each sustained, if the requirements as to security and suspension are to apply to the other. But, where only one of them makes such report and files such Notice in writing with the Commissioner, then the one against whom such Notice is filed is the only one who must comply with the requirements as to security and suspension. In the above hypothetical case, if both were injured and each claims the other to be responsible, but A fails to file a Notice in writing signifying an intention to make a claim against B, and B on the other hand does file such Notice with the Highway Commissioner, then A must comply

with the requirements as to security and suspension. B, however, will not be required to comply with such requirements as to security and suspension because A has failed to file Notice in writing signifying an intention to make a claim against B.

In other words, if both file a Notice, then each of them must comply with the requirements as to security and suspension. If neither files a Notice, then neither need comply with such requirements. And where one files such Notice, the other must comply with such requirements as to security and suspension but the one against whom such Notice is not filed need not do so.

Very truly yours,
ALVIN C. STRUTZ (s)
Special Assistant Attorney General
State Highway Department