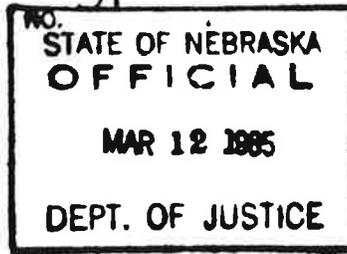


DEPARTMENT OF JUSTICE

STATE OF NEBRASKA

TELEPHONE 402/471-2682 • STATE CAPITOL • LINCOLN, NEBRASKA 68509

March 11, 1985



ROBERT M. SPIRE
Attorney General

A. Eugene Crump
Deputy Attorney General

SUBJECT: Driving while intoxicated

REQUESTED BY: Arthur S. Wetzel, Deputy Adams County Attorney,
Adams County Courthouse, Hastings, NE 68901

OPINION BY: Robert M. Spire, Attorney General; Jill
Gradwohl, Assistant Attorney General, 2115 State
Capitol, Lincoln, NE 68509

QUESTION: Does Neb.Rev.Stat. §39-606(2) (Reissue 1984)
authorize a work permit for a city employee who
has been convicted of driving while intoxicated
pursuant to Neb.Rev.Stat. §39-669.07 (Reissue
1984)?

CONCLUSION: No.

Neb.Rev.Stat. §39-606 (Reissue 1984) does not authorize a work permit for a government employee or public utility employee who has been convicted of driving while intoxicated under Neb.Rev.Stat. §39-669.07 (Reissue 1984). Section 39-606 provides in pertinent part as follows:

Unless specifically made applicable, the provisions of sections 39-601 to 39-6,122, except those provisions relative to careless driving and to reckless driving, shall not apply to:

. . .

(2) Government employees and public utility employees to the extent that there would be a conflict between sections 39-601 to 39-6,122 and the performance of their official duties.

Section 39-606 was enacted as part of the Uniform Rules of the Road Act. The exemption of government employees and public utility employees contained in §39-606 applies solely when such

Assistants

Bernard L. Packett
Mel Kammerlohr
Harold I. Mosher
Terry R. Schaaf
Marilyn B. Hutchinson
J. Kirk Brown

Royce N. Harper
Sharon M. Lindgren
Lynne R. Fritz
Ruth Anne E. Gaiter
Dale A. Comer
Martel J. Bundy

Mark D. Starr
Dale D. Brodkey
Linda L. Willard
John B. Boehm
Henry M. Grether III
Calvin D. Hansen

Timothy E. Divis
L. Jay Bertel
Jill Gradwohl
LeRoy Sievers

employees are performing their official duties. Driving while intoxicated is a misdemeanor offense which is wholly unrelated to the performance of such employees' official duties. An individual who has lost his or her motor vehicle operator's license and privilege pursuant to the driving while intoxicated laws of this state, and would therefore not be eligible for a work permit, may not utilize §39-606(2) to obtain a work permit solely because he or she is a government or public utility employee. Commission of the offense of driving while intoxicated falls outside of the scope of the performance of an employee's official duties. A private citizen may not be excepted from the driving while intoxicated laws solely because he or she is a government or public utility employee. Therefore, §39-606(2) should not be interpreted to authorize a work permit for a city employee who has been convicted of driving while intoxicated under Neb.Rev.Stat. §39-669.07.

Sincerely,

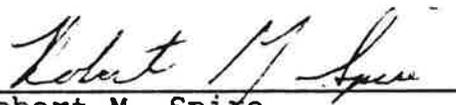
ROBERT M. SPIRE
Attorney General



Jill Gradwohl
Assistant Attorney General

JG:dr

APPROVED:



Robert M. Spire
Attorney General