

OPINION
55-47

November 23, 1955 (OPINION)

DRIVER'S LICENSE LAW

RE: "Final Conviction"

We acknowledge receipt of your request for an opinion from this office with regard to convictions as that term is used in the driver's license law and as affected by a suspension of imposition of sentence under chapter 12-53 of the 1953 Supplement to the North Dakota Revised Code 1943 as amended.

You ask whether there has been a final conviction where there is a plea of guilty or a finding of guilty but no sentence imposed.

It is the opinion of this office that a plea of guilty with no legal proceedings to have such plea set aside, or a finding of guilty with no appeal filed, is a final conviction within the intent and purpose of chapter 251, Session Law 1955.

Section 12-5319 of the 1953 Supplement indicates that there is a conviction even though imposition of sentence has been suspended and the information or indictment dismissed. The following sections of the North Dakota Revised Code substantiate our opinion that the ordinary legal meaning of the word "Conviction" does not include a sentencing. Section 12-0601 indicates that the conviction comes before punishment can be prescribed; sections 12-0606 and 29-2223 indicate that the jury alone convicts and further proceedings are not necessarily part of the conviction; and section 29-2216 indicates that the verdict itself is either a conviction or an acquittal.

Section 30 of chapter 251, Session Laws 1955 requires action on the part of the commissioner "forthwith" upon final conviction and a construction must be placed upon this provision with a view to effecting the object of the statute and so as not to nullify any part thereof.

LESLIE R. BURGUM

Attorney General