

MOTOR VEHICLES: If reconditioned motor is placed in car with identification number on frame the symbol 'RC' should be placed before number on frame

November 18, 1938

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Honorable V. H. Steward
Commissioner of Motor Vehicles
Jefferson City, Missouri

Dear Sir:

This will acknowledge receipt of your letter of October 26, 1938, requesting an opinion from this department, which reads as follows:

"For a number of years the Ford Motor Company, Detroit, Michigan, has been placing the manufacturer's number of the motor vehicle on the frame of such motor vehicle rather than placing the motor vehicle number on the motor block as is customary by other motor vehicle manufacturers.

"It has been the practice of Montgomery Ward and Company, Sears Roebuck and Company, and other large merchandise companies to buy up in large quantities old Ford V-8 motors which have no numbers stamped upon them for reconditioning purposes, and thereafter sell such motors to the general public. It has been our practice to issue or assign to the owner, a number for such motor which practice we are in doubt is the proper way to handle this matter. This business has become so large in its scope that we are desirous of knowing whether this is

the proper procedure to follow in view of Section 7781, R. S. Mo. 1929, and Section 7781a, Laws of Missouri, 1935, at page 299. If not, then what procedure should we follow in this connection."

Paragraph (b) of Section 7781, R. S. Mo. 1929, reads as follows:

"No person shall sell, or offer for sale, or shall own or have the custody or possession of a motor vehicle, trailer or motor vehicle tire on which the original or manufacturer's number or other distinguishing number has been destroyed, removed, covered, altered or defaced, and no person shall sell, offer for sale, own or have the custody or possession of a motor vehicle or trailer having no manufacturer's number or other original number, or distinguishing number: Provided, however, that any person being the owner or custodian of, or having possession of a motor vehicle, trailer or motor vehicle tire at the time of taking effect of this article, the original number of which has been previously destroyed, removed, covered, altered or defaced, shall, within thirty (30) days after the taking effect of this article, apply to the commissioner, on a blank to be prepared and furnished by said commissioner, for permission to make or stamp, or cause to be made or stamped on such motor vehicle, trailer or motor vehicle

tire, a special number; the application for such permission shall contain a description of the motor vehicle, trailer or motor vehicle tire, the name and address of the applicant, the date on which he acquired the property or the possession thereof, and the name and address of the person from whom he acquired it and such other information as may be required by the commissioner."

Paragraph (c) of Section 7774, R. S. Mo. 1929, reads, in part, as follows ;

"Certificate of ownership: No certificate of registration of any motor vehicle or trailer, or number plate therefor, shall be issued by the commissioner unless the applicant therefor shall make application for and be granted a certificate of ownership of such motor vehicle or trailer, or shall present satisfactory evidence that such certificate has been previously issued to the applicant for such motor vehicle or trailer.

Application shall be made upon a blank form furnished by the commissioner and shall contain a full description of the motor vehicle or trailer, manufacturer's or other identifying number, together with a statement of the applicant's source of title and of any liens or encumbrances on the motor vehicle or trailer. The commissioner shall use reasonable

diligence in ascertaining whether the facts stated in such application are true, and, if satisfied that the applicant is the lawful owner of such motor vehicle or trailer, or otherwise entitled to have the same registered in his name, shall thereupon issue an appropriate certificate over his signature and sealed with the seal of his office, procured and used for such purpose. The certificate shall contain a description, manufacturer's or other identifying number, and other evidences of identification of the motor vehicle or trailer, as the commissioner may deem necessary, together with a statement of any liens or encumbrances which the application may show to be thereon. * * * "

It will be seen from a reading of the above statutes, noting especially the underlined parts, that the owner of a motor vehicle is required only to have a number on the motor vehicle, and nowhere is it required that the identification number must be upon the motor. The purpose of having an identification number of motor cars is to enable the owner thereof to identify his car, to discourage the theft of automobiles by making identification easy and provide a means of regulation to the State Department having control of the licensing of automobiles.

Section 7781a, Session Laws 1935, page 298, 299, reads, in part, as follows:

"Nothing in this article shall be construed to prohibit the owner of a certificate of title to a motor vehicle issued by the Secretary of State of Missouri from removing the

motor or engine from such motor vehicle and replacing same by a reconditioned motor or engine of the same make or manufacture, and giving such replaced motor or engine the same number as the removed motor or engine bore on having same installed.

"Such owner shall joint with the person removing said motor or engine and replacing the motor or engine in said vehicle in an affidavit, which affidavit shall show the number of the engine or motor removed from said motor vehicle covered by said certificate of title, the date of such removal and the reason for such removal, and shall give a description of the motor or engine replaced in said motor vehicle, which replaced engine or motor shall bear the same number as the motor or engine removed, but shall be preceded by the symbol 'RC'.
* * * * "

The evident purpose of the section quoted above is to protect the car-buying public by providing that every reconditioned motor placed in a vehicle should be marked with the identifying symbol of 'RC.' The presence of this symbol discloses to any prospective purchaser the true condition of the car, that is, that the engine is not the original engine but is one that has been reconditioned and placed in the original chassis. As stated in your request, the identification number on a Ford car is on the frame rather than on the motor. Therefore, under a strict construction of Section 7781a, supra, since the original engine or motor does not have a number, there is nothing to which the symbol 'RC' may be attached. However, in a construction of statutes, the rule, as stated by Judge Lamm in Rutter v.

Carothers, 122 S. W. 1056, 223 Mo. 631, l. c. 642, is

"but the application of the divine injunction that the letter killeth while the spirit maketh alive. Accordingly, from the Year Books to this Year of Grace, those are recognized canons of construction which ordain that the naked letter of the law must gently and a little give way to its obvious intendment; that those who interpret the laws must not impute injustice to the lawmaker by so interpreting his language as to unnecessarily produce harsh and unreasonable results, or impute to him a disposition callous to natural justice."

In the Magdalen College Case, 11 Coke 71, Lord Coke laid down the rule as follows:

"It is well settled that laws and regulations necessary for the protection of the health, morals, and safety of society are strictly within the legitimate exercise of the police power, and, in the interpretation of such remedial statutes, the office of the judges, it has been said, is to make such a construction as will suppress the mischief and advance the remedy, and to defeat all evasions for the continuance of the mischief."

Since the intent and purpose of the Legislature was to place a symbol preceding the identification number so as to show the true condition of the motor, then, if such identification number is upon the

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frame, that is the number that should be placed upon the reconditioned engine with the symbol "RC" preceding it.

This interpretation is in line with the cases quoted above which state that the intent of the Legislature must be given effect and that the statutes which promote the protection and safety of the public must be construed liberally.

CONCLUSION

It is, therefore, the opinion of this department that when a reconditioned motor of a type of car which has the identification number on the frame rather than on the motor, is placed in a car, then the reconditioned motor should bear the identification number that is on the frame but preceded by the symbol "RC".

Respectfully submitted

ARTHUR O'KEEFE
Assistant Attorney General

APPROVED:

J. E. TAYLOR
(Acting) Attorney General

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