

*Attorney General of Missouri*

JEFFERSON CITY

65102

September 9, 1980

JOHN ASHCROFT  
ATTORNEY GENERAL

(314) 751-3321

OPINION LETTER NO. 124

The Honorable Stephen R. Sharp  
Prosecuting Attorney  
Dunklin County Courthouse  
Kennett, Missouri 63857

Dear Mr. Sharp:

This letter is in response to your question asking whether a dealer as defined in Chapter 301, RSMo, may operate with dealer's license plates a vehicle he has altered as a towing vehicle which he holds for sale. It is our view that subsection 3 of § 301.250 is applicable. Such section provides:

The dealer plates may be displayed on any motor vehicle used by an employee or officer and owned by the manufacturer or dealer, but shall not be displayed on any motor vehicle or trailer hired or loaned to others or upon any regularly used service or wrecker vehicle.

We believe that the above provisions are clear. However, the complete answer to your question also depends upon factual conclusions. That is, you have indicated that the dealer in question operates a wholesale automobile auction in Dunklin County and takes cars to different auctions around the area, including other states. The altered vehicles are one-ton trucks which have had a flatbed installed and also a hoist apparatus. These vehicles are for sale at any time and are used until they are sold.

It is our view that from a factual standpoint the vehicles, as altered, are clearly service vehicles. It is likewise our view that the vehicles are most likely "regularly used" within the normal meaning of that terminology as used in the quoted section. The question of the regular use of a vehicle

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is generally addressed by the courts in cases involving automobile insurance. See, for example, Farmers Insurance Co., Inc. v. Morris, 541 S.W.2d 66 (Mo.App., K.C.D. 1976). It appears, however, that regular use of a vehicle is use which is not infrequent or casual but of a more permanent and recurring nature. It is clear to us that the criteria to be used in determining whether there is such a regular use is not solely whether the vehicle is offered for sale.

Clearly, we do not purport to determine factual situations in opinions of this office. The facts that you have given to us, however, appear to indicate that such vehicles are regularly used as service vehicles. Such being the case, it is our conclusion that the use of dealer plates on such vehicles is improper.

Very truly yours,

A handwritten signature in cursive script that reads "John Ashcroft". The signature is written in dark ink and is positioned below the typed name.

JOHN ASHCROFT  
Attorney General