

MOTOR VEHICLES - Private use of motor vehicle operating under dealer license plates unwarranted and in violation of the law.

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June 26th, 1934.

6-28



Honorable Elliott M. Dampf  
Prosecuting Attorney  
Cole County  
Jefferson City, Missouri

Dear Sir:

This department is in receipt of your request for an opinion as to the following state of facts:

"Is it necessary for a person to purchase a license for a motor vehicle where he is a salesman for a motor company and has the car in his possession and uses same both as a demonstrator and for his private use. A loan was made upon the car by a finance company under the demonstrator plan in the name of the salesman and guaranteed by the motor company and the payments on the car made by the company. At the present time the car is being operated with dealer plates.

Also, if a stockholder in a corporation must have a motor operators license when he is employed by the said corporation as a salesman."

I.

Section 7764, R. S. Mo. 1929 provides for the registration of manufacturers and dealers. This section provides in part as follows:

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"(a) All manufacturers and dealers shall, instead of registering each motor vehicle manufactured or dealt in, make application upon a blank to be furnished by the commissioner for a distinctive number for all the motor vehicles owned or controlled by such manufacturer or dealer, said application to contain: (1) a brief description of each type of motor vehicle manufactured or dealt in, including character of the motive power, amount thereof, stated in figures of horsepower, and (2) the name and business address of such manufacturer or dealer; (3) the weight and rated live load capacity of commercial motor vehicles.

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(c) Display of duplicate number plates: Such duplicate number plates may be displayed on any motor vehicle used in the business of the manufacturer or dealer, but shall not be displayed on any motor vehicle or trailer used for the private purposes of any such manufacturer, dealer or their employes, or on any motor vehicle or trailer hired or loaned to others.

(d) The commissioner of motor vehicles shall use all due diligence to ascertain whether applicant is a dealer in fact, and he may regulate the number of plates furnished each dealer."

From the facts as stated in your letter, it is apparent that a motor vehicle is being used by a salesman for a motor company as a demonstrator and for his own per-

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sonal use and is being operated under dealer license plates, as provided in Section 7764, supra. Under sub-section C of this section, the private use of such a motor vehicle is prohibited and in direct violation of the law. This is made more apparent by sub-section D, wherein it is provided that the commissioner shall use all due diligence to ascertain whether the applicant is a dealer in fact, thereby expressing the intention of the Legislature that these motor vehicles should be operated under these license plates only for business purposes.

Sub-section D of Section 7786, R. S. Mo. 1929, provides:

"(d) Any person who violates any of the other provisions of this article shall, upon conviction thereof, be punished by a fine of not less than five dollars (\$5.00) or more than five hundred dollars (\$500.00) or by imprisonment in the county jail for a term not exceeding two years, or by both such fine and imprisonment."

We conclude, therefore, that the private use of a motor vehicle operated under dealer license plates, as provided in Section 7764, supra, is in direct violation of the law and that the manufacturer, dealer or employe operating such motor vehicle for his private use may be, under sub-section D of Section 7786, prosecuted as provided therein.

As to your second question, we are enclosing an opinion of this department to the Honorable Al J. Stack, Assistant Prosecuting Attorney, St. Louis County, Clayton, Missouri, which we believe fully covers your problem.

Respectfully submitted,

APPROVED:

ROY McKITTRICK  
Attorney General

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