

AUTOMOBILES) Theft of battery is larceny and not tampering
LARCENY) with motor vehicle.

August 23, 1934



Honorable Morgan M. Moulder
Prosecuting Attorney
Camden County
Camdenton, Missouri

Dear Sir:

We have your request of August 14, 1934 for
an opinion upon the following proposition:

"We have a statute making it a
felony to tamper with a motor vehicle.
If a person should steal a battery,
a part of the car, from a motor ve-
hicle, would such person be guilty
of tampering as provided by the
statute, or would such person be
guilty of petit larceny, the bat-
tery being worth only seven dol-
lars."

In this connection, we call your attention to
the provisions of Section 7786 (b) R. S. Mo. 1929, which
in part reads as follows:

"Any person who shall be convicted
of stealing, taking or carrying
away any motor vehicle tire or any
part or equipment of a motor ve-
hicle under the value of \$30.00
shall be punished by imprisonment
in the county jail not exceeding
one year or by fine not exceeding one
hundred dollars (\$100.00) or by both
such fine and imprisonment."

#2 - Honorable Morgan M. Moulder

Section 7782 R. S. Mo. 1929 refers to tampering with an automobile. It would appear that the tampering under such statute refers to some use to which the automobile is put or attempted to be put. State v. Anderson, 281 S. W. 1070; State v. Ryan, 269 S. W. 13. From these cases it would appear that the use or attempted use of an automobile is covered by the statute, making it a criminal offense to tamper with an automobile.

It is, therefore, the opinion of this office that upon the facts submitted, the person stealing a battery from a car should be charged with larceny, as provided in Section 7786 (b) and not under Section 7782 R. S. Mo. 1929.

Respectfully submitted,

FRANKLIN E. REAGAN
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APPROVED:

ROY McKITTRICK
Attorney General

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