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MOTOR VEHICLES: If plates are lost or destroyed by seizure or otherwise duplicates must be issued.

April 9, 1937

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Miss Gertrude H. Stokely
Automobile Department
Secretary of State's Office
Jefferson City, Missouri

Dear Miss Stokely:

This is to acknowledge your letter dated April 7, 1937, and supplement thereto, as follows:

"It is a law in the State of California, that when a car from another state enters their state and is resold to an individual, the person owning the car must relinquish their plates and buy California plates before the sale is made. The original license plates, which are not California plates, are destroyed by the authorities of California.

Recently we have had quite a few people, both individuals and dealers, apply for duplicate sets of plates, carrying the same number as the destroyed plates. As you know, there are a great many dealers who take automobiles into the State of California for re-sale. There are often ten or more automobiles transported at the same time and these same dealers often make two or three trips during the year. As stated before, all of these Missouri plates are destroyed and the question is, should duplicate plates be issued or should we require our citizens and dealers to buy a new set of plates?

May we have an opinion on this at once as we have some correspondence being held?"

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"SUPPLEMENT"

"The Missouri Dealers that sell used cars in the State of California, buy individual plates as the State of California does not honor dealers plates."

We understand from your letter that licensed Missouri dealers register automobiles in their own name and take said cars to the State of California for the purpose of selling them. Under the statutes of California when a registered and licensed automobile in another state is sold in California the foreign license plate must be surrendered to the authorities of California. Subsequent thereafter said original foreign license plates are destroyed.

You inquire if duplicate plates may be issued for those surrendered to the authorities in California. We invite your attention to the fact that it is the automobile that is registered. Section 7761, Laws of Missouri 1933, Extra Session, page 99.

When an automobile is registered Section 7770, Laws of Missouri 1935, page 297, the commissioner of motor vehicles shall without expense to the owner issue and deliver number plates.

Section 7774 R. S. Missouri 1929, provides:

"Upon the transfer of ownership of any motor vehicle***its certificate of registration and the right to use the number plates shall expire, and the number plates shall be removed at the time of the transfer of possession***The buyer shall remove such number plates at the expiration of said five days, and return them to the previous owner of the motor vehicle, and it shall be unlawful for the buyer, or any person other than the person to whom such number plates were originally issued, to have the same in

his possession after the expiration of such five days, whether in use or not; Provided, however, that in the case of a transfer of ownership the original owner may register another motor vehicle under the same number, upon the payment of a fee of \$2.00, if such motor vehicle is of horse power or tonnage not in excess of that originally registered;*****

You will note from the reading of Section 7774 supra, that the duty is placed upon the owner to recover his license plates if he sells his registered automobile. However, if he cannot do so by operation of law he cannot be penalized. If his license plates are taken from him by the authorities of another state then such are lost so far as he is concerned.

Section 7771 R. S. Missouri 1929, reads as follows:

"In the event of the loss, mutilation or destruction of any certificate of registration, certificate of ownership, number plate or badge issued by the commissioner, the lawful holder thereof may, upon filing with the commissioner an affidavit showing such fact, and on the payment of a fee of \$1.00 obtain a duplicate of such plate, certificate or badge."

Said section is unambiguous and provides that in the event of loss, mutilation or destruction of any number plate a duplicate will be given upon payment of a fee of One Dollar.

Corpus Juris, Vol. 38, page 244, defines "loss" as follows:

"A generic and relative term. 'Loss' is not a word of limited, hard and fast meaning. It may mean either the act of losing, or the thing lost. In some instances 'loss'

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may mean that which can never be re-
covered, and in others that which is
simply withheld or that of which a
party is dispossessed."

Words and Phrases, Second Series, Vol. 3, page 185, has
the following to say as to the word "loss":

"'Loss' is a relative term. A failure
to keep that which one has is 'loss'.
Foehrenbach v. German-American Title &
Trust Co., 66 Atl. 561, 563, 217 Pa.
331, 12 L.R.A. (N.S.) 465, 118 Am. St.
Rep. 916."

In view of Section 7771 supra, if a person makes an
affidavit showing that his license plates have been lost to
him by virtue of the action of the authorities of the State of
California, then in our opinion duplicates of such plates should
be given to him by the motor vehicle department upon the payment
of the required fee. As we read Section 7771 supra, it does
not attempt to define the word "loss" in any particular sense.
Consequently, giving the word "loss" the meaning that license
plates are not in the possession of the owner but withheld
to the extent that he is dispossessed from same or the use
of same, brings such owner within the terms of Section 7771,
and thus makes him eligible for a duplicate, in our opinion.

Yours very truly,

James L. HornBostel,
Assistant Attorney General

APPROVED:

J. E. TAYLOR,
(Acting) Attorney General

JLH:MM