

MOTOR VEHICLES:

"Homemade" trailers must obtain a distinguishing number from the Secretary of State in compliance with Section 7781, R.S. Mo. 1929.

April 20, 1938



Mr. B. Marvin Casteel,  
Superintendent and Colonel,  
Missouri State Highway Patrol,  
Jefferson City, Missouri.

Dear Sir:

This is to acknowledge your request dated April 16, 1938, for an official opinion from this office, which request is as follows:

"Inclosed correspondence for your information.

Request a ruling relative to serial numbers or weight capacity on homemade trailers."

"3. We want it understood that we are not so much interested in the little homemade trailers as used by the individual but in homemade trailers used by the large transport companies. For instance, one concern in Kansas City has ten semi-trailers, capacity ten tons, which are homemade and are bearing serial number fifty-one (#51). These trailers are all licensed and titled in the name of the owner, but in lieu of a serial number the words 'home made' are used. These semi-trailers are all capable of carrying ten tons but are licensed for lesser capacities."

Section 7774, R.S. Mo. 1929, paragraph c, among other things, reads as follows:

"(c) 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."  
\* \* \* \* \*

Section 7781, R.S. Mo. 1929, paragraph b, reads as follows:

"(B) No person shall sell, or offer 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:" \* \* \* \* \*

Section 7781, R.S. Mo. 1929, paragraph e, reads as follows:

"(e) In designating special numbers for motor vehicles, trailers or motor vehicle tires, the commissioner shall designate the number of same consecutively beginning with the number one (1) preceded by the letters 'C.M.V.' and followed by the letters 'Mo.,' for each and every make of motor vehicle, trailer or motor vehicle tire, or if the make be unknown, the number shall also be preceded by the letter 'X.'"

In 59 Corpus Juris, page 952, it is said:

"The intention of the legislature is to be obtained primarily from the language

used in the statute. The court must impartially and without bias review the written words of the act, being aided in their interpretation by the canons of construction. Where the language of a statute is plain and unambiguous, there is no occasion for construction, even though other meanings could be found; and the court cannot indulge in speculation as to the probable or possible qualifications which might have been in the mind of the legislature, but the statute must be given effect according to its plain and obvious meaning."\* \* citing Gendron v. Dwight Chapin & Co., (App.) 37 S.W. (2d) 486; Betz v. Kansas City So. R. Co., 284 S.W. 455, 314 Mo. 390; Grier v. Kansas City C.C. & St. J. Ry. Co., 228 S.W. 454, 286 Mo. 523.

In Betz v. Columbia Telephone Co., (App.) 24 S.W. (2d) 224, the Court said:

"To get at the true meaning of the language of the statute the court must look at the whole purpose of the act, the law as it was before the enactment, and the change in the law intended to be made."

According to the authority, Section 7781, R.S. Mo. 1929, paragraph b can only be construed in plain language of the paragraph that:

"No person shall sell, offer for sale, own or have the custody of possession of a motor vehicle or trailer having no manufacturer's number or other original number or distinguishing number."\* \* \* \*

The fact that the statute sets out "distinguishing number" means a number distinguishing the trailer from any other trailer. Section 7781, supra, is a penal statute and should be strictly construed. The punishment for the violation of paragraph b of Section 7781, supra, is set out in Section 7786, R.S. Mo. 1929, paragraph d, which reads as follows:

"(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."

Section 7781-A, Laws of Missouri, 1935, states:

"\* \* \* Whenever the original or manufacturers' number or other distinguishing number on any motor vehicle, trailer or motor vehicle tire has been destroyed, removed, covered, altered or defaced, the owner of such motor vehicle, trailer, or motor vehicle tire may apply to the Secretary of State, at Jefferson City, Missouri, for, and upon receipt of such application together with a fee of \$1.00 the Commissioner shall issue to said applicant, a certificate authorizing the owner to make or stamp or cause to be made or stamped on the motor vehicle, or motor or engine thereof or motor vehicle trailer or motor vehicle tire a special number to be designated by the Commissioner and when such number has been placed upon such motor vehicle or motor or engine thereof or trailer or motor

vehicle tire such new number shall become and thereafter be the lawful number of the same, for the purpose of identification and registration and for all other purposes under the provisions of this article, and the owner thereof may thereafter sell and transfer such property under said special number and no person shall destroy, remove, cover, alter or deface any such special number; provided that in connection with such application for such new number the owner of such motor vehicle, trailer or motor vehicle tire shall produce satisfactory evidence that he is the owner thereof."

I am referring you to paragraph (b) of Section 7781, which has not been repealed but which has been affected by additional Section 7781-A, in the Session Laws of 1935. In this section the Legislature provided for the registration of trailers on which the serial number had been destroyed, removed, covered, altered or defaced.

Section 7781, Revised Statutes Missouri 1929, provided that trailers as set out, should be registered within thirty (30) days from the taking effect of the article, which time has elapsed.

Section 7781-A was an additional section to provide for the registration where trailers had been defaced since the act of section 7781. The penalty under Section 7781, Revised Statutes of Missouri 1929, is covered by Section 7786, paragraph (d).

The statute, 7781, is not ambiguous in any respect and prescribes a penalty, so it is not necessary to interpret the construction of same. *Betz v. Kansas City Southern Railway Company*, 284 S.W. 1.c. 462.

This section, along with other sections, has been

passed on by the Supreme Court as to the legal effect and constitutionality in the case of Star Square Auto Supply Co., et al. v. Gerk, et al. 30 S.W. (2d) 447.

Section 7781, R.S. Mo. 1929, paragraph b, and Section 7781, paragraph e, should be read in connection with 7781-A, Laws of Missouri, 1935, page 300. In passing Section 7781-A, Laws of Missouri, 1935, page 300, it was not the intention of the legislature to repeal Section 7781, R.S. Mo. 1929, but merely was to provide a method for the obtaining of duplicate numbers for trailers which may become mutilated after thirty days after the taking effect of Article I, chapter 41, section 7781, paragraph b, of the Revised Statutes of Missouri, 1929.

It is also the general rule that interpreting a statute other sections which apply to the same manner shall be read together with the section subject to interpretation. This was so held in the case of State ex rel. Columbia National Bank of Kansas City. v. Davis, Judge et al., 284, S.W. 464, l.c. 470, where the court held:

"Statutes in pari materia are those which relate to the same person or thing, or to the same class of persons or things. In the construction of a particular statute, or in the interpretation of any of its provisions, all acts relating to the same subject, or having the same general purpose, should be read in connection with it, as together constituting one law."

#### CONCLUSION

According to the above authorities, it is the opinion of this department that the owners of so-called "homemade" trailers may be prosecuted for not obtaining distinguishing numbers from the Secretary of State as

provided in Section 7781, R.S. Mo. 1929.

It is also the opinion of this department that Section 7781-A, Laws of 1935, page 299, is only applicable where a trailer has a number or has been given a number by the Secretary of State in his certificate of title and which number has been destroyed, removed, covered, altered or defaced. Under Section 7781, R.S. Mo. 1929, one who has possession of a trailer which has no manufacturer's number or number given by the Secretary of State, can be prosecuted on a misdemeanor.

It is also unlawful for an owner to have more than one trailer bearing the same number, which if properly obtained, could not lawfully be duplicated. Owners of "homemade" trailers cannot give a distinguishing number, but must obtain distinguishing number through the Secretary of State as provided by Section 7781, R.S. Mo. 1929.

Respectfully submitted,

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APPROVED:

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