

MOTOR VEHICLES:

Power of St. Louis Police to make arrests for displaying illegal tags on motor vehicles and changing number on motor block.

January 11, 1938

Mr. John H. Glassco,
Chief of Police,
St. Louis, Missouri.

Dear Sir:

This will acknowledge receipt of your request for an official opinion dated January 5, 1938, which reads as follows:

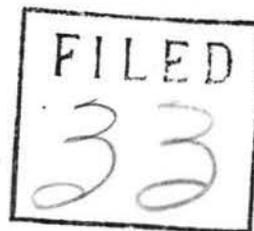
"Would request this department obtain opinion or decision from Attorney General at Jefferson City, Mo., thru the Secretary of State's Office; having to do with the following situations:-

What jurisdiction this department has insofar as automobiles bearing improper state licenses are concerned and NOT in operation.

Also in the matter of Certificate of Title; it being the practice of used car dealers and junk dealers to retain these Certificate of Titles and NOT return same to the Commissioner of Motor Vehicles for cancellation. In many cases this bureau has found these titles are used in the handling of stolen automobiles in which the motor numbers are erased and numbers substituted to correspond with Certificate of Title in their possession; their being no compulsory measures for the return of these titles to Commissioner of Motor Vehicles when the automobiles are wrecked beyond repair or junked.

This matter of Certificate of Title has been taken up with Associate City Counsellors McCune and Barrow, who suggest decision by the Attorney General Office at Jefferson City, Mo.

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The attached report was drafted by the Automobile Bureau of the St. Louis Police Department with a view to clearing up certain matters with which their officers come in contact almost daily.

Will you please give the subject matter attention and favor us with a ruling by which our officers may be governed, at your early convenience."

Section 7770 Session Laws of 1935, paragraph E, page 298, reads as follows:

"No person shall operate a motor vehicle or trailer on which there is displayed on the front or rear thereof any other plate, tag or placard bearing any number except the plate furnished by the commissioner or the placard herein authorized, and the official license tag of any municipality of this state, nor shall there be displayed on any motor vehicle or trailer a placard, sign or tag bearing the words 'license lost', 'license applied for', or words of similar import, as a substitute for such number plates or such placard."

Under this section a motor vehicle must be in operation before it is a violation of the law.

The violation under paragraph E of this section is punishable as set out in Section 7786 R.S. Mo. 1929, paragraph D, which is as follows:

"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."

The punishment as set out in paragraph D is the general penalty set out in the motor Vehicle Act where no specific penalty is

set out for any specific part of said act.

The above authority set out covers the first part of your request regarding the jurisdiction of the police department bearing improper state licenses when not in operation.

Section 7781 R.S. Mo. 1929, paragraph A provides as follows:

"No person shall destroy, remove, cover, alter, deface, or cause to be destroyed, removed, covered, altered or defaced, the manufacturer's number, the motor number or other distinguishing number on any motor vehicle, or number or other distinguishing number on any motor vehicle tire, the property of another for any reason whatsoever."

This paragraph prohibits the alteration of the distinguishing numbers on a motor vehicle and is punishable as a felony.

Section 7786 R.S. Mo. 1929, paragraph C, provides as punishment for the violation of above set out Section 7781 R. S. Mo. 1929, paragraph A, as follows:

"Any person who violates paragraph (a) of section 7781, paragraph (a) of section 7782 or paragraph (f) or (g) of section 7783 shall be deemed guilty of a felony and on conviction thereof shall be punished by imprisonment in the penitentiary for a term not exceeding five years or by confinement in the county jail for a term not exceeding one year, or by a fine not exceeding one hundred dollars (\$100.00) or by both such fine and imprisonment."

Section 7781 R.S. Mo. 1929, paragraph B, provides as follows:

"No person shall sell, or offer for 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 was amended by way of addition by Section 7781a at page 299 Session Laws of 1935 which reads as follows:

"Nothing in this article shall be construed to prohibit the owner of a certificate of title to a motor vehicle issued by the Secretary of State of Missouri from removing the motor or engine from such motor vehicle and replacing same by a reconditioned motor or engine of the same make or manufacture, and giving such replaced motor or engine the same number as the removed motor or engine bore on having same installed.

Such owner shall joint with the person removing said motor or engine and replacing the motor or engine in said vehicle in an affidavit, which affidavit shall show the number of the engine or motor removed from said motor vehicle covered by said certificate of title, the date of such removal and the reason for such removal, and shall give a description of the motor or engine replaced in said motor vehicle, which replaced engine or motor shall bear the same number as the motor or engine removed, but shall be preceded by the symbol 'RC'. Said affidavit, together with the original certificate of title shall then be sent to the Secretary of State at Jefferson city, Missouri, with a fee of \$1.00, for registration of such change in motors or engines. On receipt of same it shall be the duty of the Secretary of State to file the affidavit, and such certificate, in

his office, and issue a new certificate of title covering said motor vehicle in the name of the owner thereof, as shown by the certificate filed, and to deliver said new certificate to such owner.

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."

Section 7786 R.S. Mo. 1929, paragraph D provides for the violation of Section 7781 R.S. Mo. 1929, paragraph B

and reads as follows:

"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 R.S. Mo. 1929, which provided that it was unlawful to alter, sell or have in possession any motor vehicle or tires, the serial number of which had been altered, or in which the number of the engine motor had been altered, was held to come within the police power in *Star Square Auto Supply Company v. Gerk*, 30 S.W. (2d) 447. The whole act was held constitutional under this case.

CONCLUSION

In conclusion will say that it is the opinion of this office that under Section 7770, paragraph E, Session Laws of 1935, page 298, unless the motor vehicle is being operated the owner is not committing any crime by placing any other tag than the tag issued by the commissioner of motor vehicles, upon said motor vehicle.

Further, it is the opinion of this office that the junk dealers are not required to return certificates of title for cancellation to the commissioner of motor vehicles in a transaction where they receive the assignment of the certificate of title and intend to destroy the car as junk. However, when the police of St. Louis can prove that the motor number of any motor on any motor vehicle has been altered or changed unlawfully by the owner, the police are authorized to charge the owner of said motor vehicle with a felony under Section 7781 R.S. Mo. 1929, paragraph A.

If there is no sufficient evidence to prove by whom the numbers on the motor had been altered under paragraph A of Section 7781, paragraph B of said Section 7781 forbids the

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selling for possession of motor vehicles or motor vehicle tires so altered. Paragraph B of this section is punishable as a misdemeanor.

Respectfully submitted,

W. J. BURKE
Assistant Attorney General

APPROVED:

J. E. TAYLOR
(Acting) Attorney General

WJB:DA