

MOTOR VEHICLES: Commissioner may permit corporation that has changed its name to retain and continue use of dealer's license plates issued to it without making new application and payment of additional fees.

June 23, 1939



Mr. V. H. Steward
Commissioner of Motor Vehicles
Jefferson City, Missouri

Dear Sir:

We wish to acknowledge your request for an opinion under date of June 10th, as follows:

"We are desirous of obtaining from your department an opinion upon the following state of facts:

On April 28, 1939, Mr. Ray Rixman, President of the Ray Rixman, Inc., sold his stock in said corporation to one H. J. Smith, who was then the Vice-president and General Manager of said corporation. Under the terms of the agreement it was provided that the name of the corporation be changed from Ray Rixman, Inc., to H. J. Smith Motor Corporation. This was done. During the license year of 1939 the Ray Rixman, Inc., was issued Dealer's plates, under the provisions of Section 7764 of R. S. Missouri 1929. This section of the statute in substance and effect requires that all dealers, instead of registering such motor vehicles dealt in is required to make an application for such registering. The statute requires that a brief description of each motor vehicle dealt in be set forth as well as the name and business address of such dealer. It is further provided in the same statute that the Commissioner of Motor Vehicles shall use diligence to determine and ascertain whether or not the applicant is in fact a dealer.

It is the contention of the attorneys who represent the H. J. Smith Motor Co., that they are entitled, under the provisions of the statute above noticed, to retain the dealer plates formally issued to Ray Rixman, Inc., upon the theory that the corporation is still in existence and the only change which has occurred in the corporation is the matter of name.

Our precise question for your consideration is:

May the Commissioner of Motor Vehicles permit any corporation which has changed its name, when such corporation has heretofore been issued dealers license plates, retain and continue to use such dealer license plates when the name of such corporation has been changed, without making a new application and the payment of an additional fee for the issuance of new dealers plates, under the provisions of Section 7764, above noticed."

Section 7764, R. S. Mo. 1929, provides in part as follows:

"(a) * * * dealers shall, instead of registering each motor vehicle * * * 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 * * * dealer, said application to contain: (1) a brief description of each type of motor vehicle * * * dealt in, including character of the motive power, amount thereof, stated in figures of horsepower, and (2) the name and business address of such * * * dealer; * * *

(b) Fees and plates for * * * dealers: On the payment of a registration fee of \$21.00 there shall be assigned to such * * * dealer a certificate of registration in such form as the commissioner shall prescribe, and two sets of number plates bearing such number. As many duplicate sets of number plates as may be desired may be obtained upon the payment of a fee of \$10.50 for each duplicate set."

Section 7759, R. S. Mo. 1929, defines the term "dealer" as being:

"Any person, firm, corporation, association, agent or sub-agent engaged in the sale or exchange of new, used or reconstructed motor vehicles or trailers."

Thompson on Corp., Vol. 1, 3rd Ed., Section 71, p. 76, makes the following statement with respect to the effect of a change of name on a corporation's rights and liabilities:

"It is evident that a mere change of the name of a corporation can have no effect upon its existence or identity, or upon rights and liabilities flowing either to or from it, a corporation being said to be one and the same entity notwithstanding the change of its name. The change in the name has no more effect on the identity of the corporation than a change in the name of a natural person has upon his identity. The mere change of a name does not create a new corporation."

Such statement finds support in the case of W. T. Rawleigh Co. v. Grigg, 191 S. W. 1019, 1. c. 1021, wherein the Springfield Court of Appeals said:

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"* * * a change of name does not make a new corporation, but only gives it a new name."

42 C. J., Section 75, p. 659, discusses the purpose of registration and licensing of motor vehicles:

"The registration and numbering of motor vehicles is necessary to secure a proper observance of their duties on the highway and for the purpose of aiding in the detection of such vehicles and of those responsible for their movements and conduct, in case they fail to observe such duties, and the object of the license is to furnish a further guaranty that proper use of the vehicle will be made and that it will be operated in compliance with the law."

We do not see how a change in the name of a corporation could affect the detection of vehicles, or diminish the guaranty that they will be operated in compliance with the law, when considered in light of the fact that such change does not affect the rights and liabilities of such corporation.

We are therefore of the opinion that the Commissioner of Motor Vehicles may permit a corporation that has changed its name to retain and continue to use the dealer's license plates issued to it without making a new application and payment of an additional fee for the issuance of new dealer's plates.

Respectfully submitted,

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APPROVED:

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