

AUTOMOBILE
LICENSE:

Person may purchase either new or duplicate
license plates in case of loss by theft
or otherwise.

November 27, 1940

11-29



Hon. A. D. Sheppard
Lieutenant-Colonel, Commanding
Missouri State Highway Patrol
Jefferson City, Missouri

Dear Sir:

We are in receipt of your request for an
opinion, under date of November 20, 1940, which reads
as follows:

"Please give this office an opinion
based on the following facts which
have been submitted to this office.

'Suppose that John Jones buys
Missouri license plates for his
automobile, a Chevrolet sedan, in
January 1940. That he operates the
automobile upon the highways of this
state until about the first of Octo-
ber, then someone steals both license
plates. After waiting a day or so and
the police having failed to find his
stolen plates, Mr. Jones decides to
get more license plates. Mr. Jones
wants to take an extended trip and
to save the embarrassment of being
stopped frequently by officers, he
decides to buy another set of license
plates instead of getting duplicates
of the ones stolen. He goes to a
deputy license bureau and makes a

request to purchase a new license for his car for the final quarter of the year. The license bureau informs Mr. Jones that before they can sell him license plates he must make an affidavit that his car has not been operated on the highways this year, which Mr. Jones cannot do. He is thereby forced to order duplicate plates and operate his car without license while waiting for his duplicate plates to arrive.

'Please inform us if it would be legal for Mr. Jones to purchase quarter year license for his automobile after his original license were stolen, or if he would have to purchase duplicate plates, and if legal to purchase new license what procedure he should follow.

'This question has come up frequently and some of the license bureaus have sold applicants quarter year license, while other bureaus have refused to do so.'

Section 770 Laws of Missouri, 1935, at page 297, provides in part as follows:

"(a) The commissioner shall, without expense to the owner, issue and deliver to him such number plates bearing the abbreviated name of the state and the number assigned as may

be necessary to properly carry out the provisions of this article. Such plates shall be metal and of a different color or shade each year and there shall be a marked contrast between the color of the numbers thereon and the background of said plates. Figures on said plates shall not be less than four inches in height and the strokes thereof not less than three-eighths of an inch in width: Provided, that in case of motorcycles and motor-tricycles said letters and figures shall be not less than one inch in height and the strokes thereof one-eighth of an inch in width. The commissioner may provide for the arrangement of such numbers in groups, or otherwise, and for other distinguishing marks on such plates.

* * *

"(e) 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."

It will be noted in reading subdivision (a) that the commissioner shall, without expense to the owner, issue and deliver to him such number plates bearing the name, or the abbreviated name, of the State and the number assigned as may be necessary to properly carry out the provisions of this article. At no place in this section, or in the motor vehicle law, is it directly stated that a person shall be limited to the number of license plates that he shall be able to purchase.

Section 7774, Laws of Missouri, 1939, page 518, provides in part as follows:

"(a) Upon the transfer of ownership of any motor vehicle or trailer 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, unless the seller shall give the buyer written permission to use such number plates for a period of five days, in which event the buyer shall have and display on demand of any proper officer said written consent of the previous owner. 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; or upon the payment of a fee of \$2.00 and the difference between the fee originally paid and that due in case the new motor vehicle is of greater horse power or tonnage."

It will be noted in the aforesaid subdivision (a), that upon the transfer of ownership of any motor vehicle, or trailer, its certificate of registration and the rights to use the number plates shall expire, and the number plates shall be removed at the time of the transfer of possession, unless the seller shall give the buyer permission to use such number plates for a period of five days. Provided, however, that in case of a transfer of ownership the original owner may register another motor vehicle under the same number upon payment of a fee of two dollars. From the reading of this subdivision it is the intention of the law that all motor vehicle license plates shall remain in the possession of the person who purchases them and whenever the motor vehicle, which is described in the application, for which the plates were purchased shall be sold, then the person shall keep his license plates and shall not sell them, and if he has another motor vehicle he shall pay the fee of two dollars to have them transferred to that motor vehicle. Should the motor vehicle be of a larger horse power, then he shall pay the corresponding increase that he would have paid in the first instance for the license.

Section 7771 R. S. Missouri, 1929, provides 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."

It will be noted in the aforesaid section 771 that the lawful holder thereof may upon filing with the commissioner an affidavit showing such fact, and upon the payment of the fee of one dollar, obtain a duplicate of such plate, certificate or badge. As we have pointed out, Section 7770, supra, places the authority and power in the commissioner to regulate, issue and deliver such number plates as will properly carry out the provisions of this article and spirit of the law and, in view of the fact that section 7774, supra, provides that the license shall always be the property of the person who procures them, in the first instance, and that they do not follow the motor vehicle for which they were originally purchased; and, further, that section 7771, supra, which provides that a person may purchase a duplicate plate, or plates, in the case of loss, and there being no provision in the motor vehicle law which affirmatively declares that a person in the case of loss of the license plate shall purchase a duplicate, and no other kind of plate other than the duplicate plate we do not see how it could be reasonably said that should a person who has lost his license plates, through theft or otherwise and desired (because of the reasons set forth in your letter or other reasons) to pay the legal fee as provided under Section 7769 R. S. Missouri, 1929, (as amended, Laws 1933, Ex. Sess., p. 98, sec. 1) instead of paying the nominal charge of one dollar per plate. We think that section 7771, supra, was enacted by the legislature for the sole purpose of placing a nominal charge so that a person who was unfortunate and lost his original plates could procure a duplicate thereof at a nominal charge. Of course

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we are aware of the line of reasoning that due to the fact that the legislature, through the passage of this Act, might have meant that it was incumbent upon the commissioner to only allow a person to purchase a duplicate plate in the case of loss and that it was the legislative intent that they should be precluded from the purchase of new plates; but we believe that the liberal and correct construction of this section is that the legislature intended that those who were unfortunate and lost their plates should be allowed to procure a duplicate for a fee much less than an original plate would cost, and we do not think that the legislature intended if a person saw fit, through necessity and expedience, to purchase a new plate and pay the additional cost, to preclude him from doing so.

We note in your letter that you make reference to the affidavit that is customarily presented to persons who seek to buy plates in the latter part of the year. We do not find any section in the law which requires and sets out any form of affidavit as described in your letter, and we presume that this affidavit to which you refer has been properly prepared by the commissioner, as a precautionary method to the end that every person who owns a motor vehicle and operates the same upon the highways of the State of Missouri, shall procure and pay the proper license charge, and cannot be allowed to operate the car on old plates for a portion of the year and then take advantage of the reduced price which is provided by Section 7769, supra.

CONCLUSION.

In conclusion we do not find any legal restriction which would preclude a person who lost his original license plates by theft or otherwise, from purchasing a set of new plates, if he paid the customary charge, or if he desired he could purchase a set of duplicate plates at a reduced price, as provided by Section 7771 R. S. Missouri, 1929.

Respectfully submitted,

APPROVED:

COVELL R. HEWITT
(Acting) Attorney General

B. RICHARDS CREECH
Assistant Attorney General

BRG:RW