

MOTOR VEHICLES:
CERTIFICATE OF TITLE:

A person selling in Missouri, a motor vehicle not registered under the laws of this state, to which motor vehicle the seller passes to the buyer no evidences of title, does not violate subsection 4 of Section 301.210, RSMo 1949.

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Colonel David E. Harrison, Superintendent
Missouri State Highway Patrol
Jefferson City, Missouri

My dear Colonel Harrison:

Your recent letter to the Attorney General requesting an official opinion has been assigned to me to answer. You thus state your opinion request:

"We have been requested by one of our troop commanders to obtain an opinion on the following matter:

"A former resident of the State of Iowa, now living in the State of Missouri, brought into this State a car registered in the State of Iowa and subsequently sold the vehicle to a citizen but failed to deliver to him a proper title. As a result the purchaser was unable to register the vehicle in this State and he asked the Patrol to assist him in obtaining the title. This department arrested the seller and charged him with unlawful sale of a motor vehicle under Section 301.210, paragraph 4, Statutes of Missouri, 1949. The case was dismissed on the grounds the law did not apply since the vehicle in question was not registered under the laws of the State of Missouri.

"We request that your department give us an opinion whether or not the law would apply in this particular case, and recommend to us what procedure should be followed in any case of this type in the future."

Subsequent to writing the above letter, you have supplemented the information contained therein by informing us orally that in the instant case the seller did not deliver to the buyer at the time of sale or at any time any title of any kind whatsoever.

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Sub-section 4 of Section 301.210, RSMo 1949, states:

"It shall be unlawful for any person to buy or sell in this state any motor vehicle or trailer registered under the laws of this state, unless at the time of the delivery thereof, there shall pass between the parties such certificate of ownership with an assignment thereof, as herein provided, and the sale of any motor vehicle or trailer registered under the laws of this state, without the assignment of such certificate of ownership, shall be fraudulent and void."

From the above it is clear that any person who, in this state, sells a motor vehicle registered under the laws of this state, without issuing to the buyer a certificate of ownership with an assignment thereof, violates sub-section 4 of Section 301.210, quoted above.

But the question which we have to answer here is: when a person in this state, sells a motor vehicle in this state, which motor vehicle is not registered under the laws of this state, but which is registered under the laws of another state, and the aforesaid seller does not give to the buyer at the time of sale, or at any time, any title whatsoever, is he in violation of sub-section 4 of Section 301.210, supra?

We believe that the answer to this question is in the negative. It will be observed that Section 301.210, supra, clearly states that it is to apply to any motor vehicle or trailer "registered under the laws of this state." Since the motor vehicle in the instant case was not registered under the laws of this state, we do not believe that the above section applies. If it had been the intent of the Legislature that the section quoted above should apply to such situations as you present, it certainly would not have limited its application to motor vehicles "registered under the laws of this state."

Only by a very strained construction, if at all, could Section 301.210, supra, be made applicable in the instant case. It is a well established principle of law in Missouri that criminal statutes are to be construed strictly against the state and liberally in favor of the defendant. In the case of State v. Dougherty, 216 S.W. 2d 467, l.c. 471, the Court stated:

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"Criminal statutes are to be construed strictly; liberally in favor of the defendant, and strictly against the state, both as to the charge and the proof. No one is to be made subject to such statutes by implication.' State v. Bartley, 304 Mo. 58, 263 S.W. 95, 96; State v. Taylor, 345 Mo. 325, 133 S.W. 2d 336, 341."

CONCLUSION

It is the opinion of this department that one selling in Missouri a motor vehicle not registered under the laws of this state, to which motor vehicle the seller passes to the buyer no evidences of title, does not violate sub-section 4 of Section 301.210, RSMo 1949.

Respectfully submitted,

HUGH P. WILLIAMSON
Assistant Attorney General

APPROVED:



J. E. TAYLOR
Attorney General

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