

LIENS: When a new or used car is purchased in
MOTOR VEHICLES: Missouri, a lien becomes perfected under
MOTOR VEHICLE REGISTRATION: Section 301.600, RSMo Supp. 1965, upon
delivery to the Director of Revenue of
either the existing title or manufacturer's certificate of origin
and the new owner's application for title consisting of any
one of the copies of Department of Revenue form number MMV-1-R2
along with the one dollar fee as required by Section 301.190, RSMo
Supp. 1965.

Payment of the Missouri Sales Tax is not necessary to perfect
a lien.

June 16, 1966



OPINION NO. 115
(Revised August 16, 1966)

Honorable James E. Godfrey
Representative for 3rd District
of City of St. Louis
Missouri House of Representatives
418 Olive Street
St. Louis, Missouri 63102

Dear Mr. Godfrey:

This is in answer to your request for an opinion on the proper
way to perfect a lien under Senate Bill No. 149, 73rd General As-
sembly, and whether or not the directive sent out by the Department
of Revenue, Motor Vehicle Registration, dated January 24, 1966,
properly perfects a lien under this new law.

Subsequently you advised us to consider only the situations of
perfecting a lien made with new and used car purchases in Missouri.

Senate Bill No. 149 was enacted as Section 301.600 through
301.670, RSMo Supp. 1965. The applicable section to your ques-
tion is Section 301.600 which reads in part as follows:

"1. Unless excepted by section 301.650, a
lien or encumbrance on a motor vehicle or
trailer, as defined by section 301.010, is
not valid against subsequent transferees or
lienholders of the motor or trailer who
took without knowledge of the lien or en-
cumbrance unless the lien or encumbrance is
perfected as provided in sections 301.600 to
301.670.

Honorable James E. Godfrey

"2. A lien or encumbrance on a motor vehicle or trailer is perfected by the delivery to the director of revenue of the existing certificate of ownership, if any, an application for a certificate of ownership containing the name and address of the lienholder and the date of his security agreement, and the required certificate of ownership fee. It is perfected as of the time of its creation if the delivery of the aforesaid to the director of revenue is completed within thirty days thereafter, otherwise as of the time of the delivery."

In the situation where a new car is sold a certificate of ownership or title does not exist. Therefore, the lien is perfected upon delivery of proper application for a title and the required title fee. To perfect the lien the application for title must contain the following information: name and address of the lienholder; date of the security agreement.

In the situation where a used car is sold there is an existing title. Therefore, the lien is perfected by delivery of this title and proper application for title and the required title fee.

Section 301.190, RSMo Supp. 1965, is the section which provides for title application and also prescribes the fee of one dollar. Section 301.190 reads in part as follows:

"1. No certificate of registration of any motor vehicle or trailer, or number plate therefor, shall be issued by the director of revenue 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 within thirty days after the applicant acquires the motor vehicle upon a blank form furnished by the director of revenue and shall contain a full description of the motor vehicle or trailer, manufacturer's or other identifying number, together with a statement of the ap-

Honorable James E. Godfrey

plicant's source of title and of any liens or encumbrances on the motor vehicle or trailer, provided that for good cause shown the director of revenue may extend the period of time for making said application."

Under this section the Director of Revenue has the duty of preparing a blank application form which must contain certain information including a statement of the source of title. The person who purchased the vehicle is the person who applies for title and who would pay the one dollar fee. However, delivery of the application for title and the one dollar fee does not have to be performed by the purchaser of the vehicle.

The Department of Revenue has prepared a blank form numbered MMV-1-R2 which is the application for Missouri title and/or license. This form provides for all the information required by Sections 301.190 and 301.600, supra. This form has six copies and copy No. 4 is labeled the lien perfection copy, and copy No. 5 is labeled the lienholder copy.

The Department of Revenue directive, dated January 24, 1966, states that for new vehicles the lienholder may either present the six copy application intact (copy No. 5 is not required), along with all applicable fees and the manufacturer's certificate of origin, or the lienholder may present copy No. 4 and if desired copy No. 5, along with the one dollar fee and the manufacturer's certificate of origin. In the second instance the remaining copies are sent in by the purchaser of the vehicle. For used car purchases the procedure is the same with the exception that the existing title is delivered in place of the manufacturer's certificate of origin.

When the lienholder delivers copy No. 4 and if desired copy No. 5, they are kept in a suspense file until receipt of the remaining copies. If the purchaser of the vehicle should deliver his copies first, then they are kept in a suspense file until receipt of copy No. 4 and the optional copy No. 5. The Department of Revenue actually treats the delivery of any one of the copies or any combination of copies as an application for title. Therefore, delivery of copy 4 is considered an application for title. The only necessity of delivery of the other copies, excluding copy 5, is that they must accompany the payment of the sales tax which is a prerequisite to issuance of title. Section 144.070, RSMo Supp. 1965.

Section 144.070, supra, reads in part as follows:

"1. At the time the owner of any new or used motor vehicle or trailer which was acquired in a transaction subject

Honorable James E. Godfrey

to sales tax under the Missouri sales tax law makes application to the director of revenue for an official certificate of title and the registration of said automobile or trailer as otherwise provided by law, he shall present to the director of revenue evidence satisfactory to said director of revenue showing the purchase price paid by or charged to the applicant in the acquisition of said motor vehicle or trailer, or that no sales tax was incurred in its acquisition, and if sales tax was incurred in such acquisition, such applicant shall pay or cause to be paid to the director of revenue the sales tax provided by the Missouri sales tax law in addition to the registration fees now or hereafter required according to law, and the director of revenue shall not issue a certificate of title for any new or used motor vehicle or trailer subject to sales tax as provided in said Missouri sales tax law until the tax levied for the sale of the same under sections 144.010 to 144.510 has been paid as herein provided."

It is our opinion that this section does not make the sales tax or payment of same a part of the application for title but merely says that until the tax is paid title will not be issued. Therefore, payment of the tax and delivery of the accompanying copies is not necessary to perfect the lien because under Section 301.600, supra, perfection of the lien does not occur on issuance of title but only on delivery of application for title.

CONCLUSION

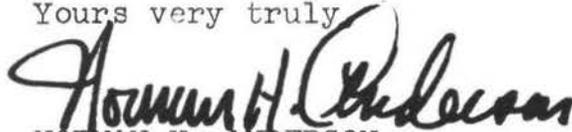
It is the opinion of this office that when a new or used car is purchased in Missouri a lien becomes perfected under Section 301.600, RSMo Supp. 1965, upon delivery to the Director of Revenue of either the existing title or manufacturer's certificate of origin and the new owner's application for title consisting of any one of the copies of Department of Revenue form number MMV-1-R2 along with the one dollar fee as required by Section 301.190, RSMo Supp. 1965.

Honorable James E. Godfrey

It is our further opinion that payment of the Missouri Sales Tax is not necessary to perfect a lien.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, Walter W. Nowotny, Jr.

Yours very truly



NORMAN H. ANDERSON
Attorney General