

ANSWER BY LETTER: ASHBY

October 14, 1969



OPINION LETTER NO. 83

Mr. Richard E. Snider  
First Assistant Prosecuting Attorney  
14 North Pacific  
Cape Girardeau, Missouri 63701

Dear Mr. Snider:

We have your letter, which reads as follows:

"Erlbacher Materials Inc. 1300 Water Street Cape Girardeau Missouri is a dealer in construction earth moving equipment and have been issued dealers plates by the Department of Revenue.

Periodically they travel to St. Joseph, Missouri where they purchase, in this instant a loby and caterpillar tractor; placed their dealer plate on the loby and on the tractor pulling the loby, loaded the caterpillar tractor on the loby and returned to Cape Girardeau where the loby and caterpillar tractor are displayed for sale.

Recently they were stopped by the Missouri State Highway Patrol and arrested for improper use of dealer's plates and forced to purchase registration plates for the loby and tractor (which of course included payment of the sale tax) before being allowed to proceed.

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Examination of Vernon's Annotated Missouri Statutes Sections No. 301.130; 301.140; 301.170 and 301.250 lead me to believe that their activity is a proper use of their dealer's plates and that they are not in violation of the Missouri law."

The pertinent portion of Section 301.250, RSMo 1959, reads as follows:

"1. All manufacturers and dealers shall, instead of registering each motor vehicle manufactured or dealt in, make a verified application upon a blank to be furnished by the director of revenue, for a distinctive number for all the motor vehicles owned or controlled by such manufacturer or dealer, said application to contain:

\* \* \* \*

3. The dealer plates may be displayed on any motor vehicle used by an employee or officer and owned by the manufacturer or dealer, but shall not be displayed on any motor vehicle or trailer hired or loaned to others or upon any regularly used service or wrecker vehicle.

4. The director of revenue shall use all due diligence to ascertain whether applicant is a dealer in fact, and he may regulate the number of plates furnished each dealer. For the purposes of this section a dealer is any person, firm, corporation, association, agent or sub-agent, engaged in the business of selling or exchanging new, used, or reconstructed motor vehicles or trailers and who buys and sells, or exchanges four or more new, used or reconstructed motor vehicles or trailers in any one calendar year."

Reviewing the facts, the dealer drove his regularly used service vehicle (or tractor) to St. Joseph where they picked up a loby and caterpillar (both of the latter for resale) from another dealer or manufacturer. They placed the licenses or dealer plates on the loby and tractor and had started to return to Cape Girardeau when arrested.

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The use of the dealer plate on the loboy was proper under Section 301.250 (sub-par. 3) supra, since the loboy was for resale and was not being "displayed on any motor vehicle or trailer hired or loaned to others or upon any regularly used service or wrecker vehicle".

However, the tractor being a "regularly used service vehicle" as we understand the facts was specifically denied the use of the dealer plate (see sub-par. 3, Section 301.250, supra).

It seems to us that the language of the statute is clear and unambiguous and by definition, we believe the dealer violated the proscription of sub-par. 3, Section 301.250, supra, by using the dealer plates on his "regularly used service vehicle".

We have assumed for purpose of this opinion that the tractor was a regularly used service vehicle.

We do not feel Section 301.130, 301.140 and 301.170, RSMo 1959, are applicable to this situation.

For the reasons above stated, we have concluded the use of the dealer plates on the loboy was proper but the use of the dealer plates on a regularly used service vehicle was in violation of Section 301.250, RSMo 1959.

If you have any further questions, please feel free to request the opinion of this office.

Very truly yours,

JOHN C. DANFORTH  
Attorney General