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The Director of Revenue, as a result of the enactment of Senate Bill No. 242 by the 75th General Assembly amending Section 301.137, RSMo, cannot issue a special series of license plates for persons who have amateur radio operators' licenses.

January 9, 1970

OPINION NO. 95

Honorable Richard M. Marshall
Representative - 43rd District
St. Louis County
111 South Bemiston
St. Louis, Missouri 63105



Dear Mr. Marshall:

This is in reply to your request for an official opinion from this office concerning the question whether the Director of Revenue can issue a special series of license plates for persons who have amateur radio operators' licenses.

Your opinion request is prompted by the enactment of Senate Bill No. 242 by the 75th General Assembly amending Section 301.137, RSMo, deleting subsections 1 and 2 relating to special licenses for amateur operators' licenses.

Prior to Senate Bill No. 242, Section 301.137, RSMo, read as follows:

"1. Owners of motor vehicles who are residents of the state of Missouri, and who hold an unrevoked and unexpired official amateur radio license issued by the Federal Communications Commission, upon application, accompanied by proof of ownership of such amateur radio station license, complying with the state motor vehicle laws relating to registration and licensing of motor vehicles as contained in this chapter, and upon the payment of the regular license fee for tags as prescribed under section 301.060, and the payment of an additional fee of one dollar, shall be issued a license plate as prescribed by section 301.130,

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for private passenger cars, upon which, in lieu of the numbers as prescribed by said section 301.130, shall be inscribed the official amateur radio call letters of such applicant as assigned by the Federal Communications Commission.

"2. The director of revenue shall make such rules and regulations as may be necessary to ascertain compliance with all state license laws relating to the use and operation of a private passenger car before issuing said lettered plates in lieu of the said numbered license plates, and all applications for such plates shall be made to the director of revenue.

"3. The director of revenue shall, on or before the first day of January each year, furnish to the Missouri state highway patrol and to the sheriffs of each county in the state of Missouri an alphabetically arranged list of the names, addresses and license plate letters of each person to whom a license plate is issued under the provisions of this section, and it shall be the duty of the Missouri state highway patrol and the sheriffs of the state to maintain and to keep current such lists for public information and inquiry."

As a result of Senate Bill No. 242, both subsections 1 and 2 are repealed and subsection 3 remains intact.

Thus, the legislature specifically repealed the specific authorization for these special plates although they did leave in the section directing that a list of such special plates be sent to the highway patrol and sheriffs.

The question then is in view of the repeal of any specific authorization for these special plates, can the Director of Revenue nevertheless issue such plates?

All plates now, except historical plates and plates for certain official vehicles, are issued pursuant to Section 301.130, Senate Bill No. 242, 75th General Assembly, which reads in part as follows:

"1. Upon the filing of an application for registration, together with such information as may be required by the director and the payment of fees heretofore provided, the director shall assign a number or numbers to each applicant and without further expense to the applicant shall issue and mail or deliver to him a certificate of registration in such form as the director shall prescribe and, unless otherwise

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provided, a set of license plates bearing the name or the abbreviated name of the state, the month and year of expiration and the number or numbers assigned; except that a set of plates for commercial motor vehicles shall not be assigned on permanent basis but shall be issued pursuant to subsection 3 of section 301.030."

Section 301.131, RSMo, provides for historical plates for historic motor vehicles specially marked as such, and Section 301.260, RSMo, provides for specially marked plates for state and municipally owned motor vehicles.

The primary rule in construing statutes is to determine the legislative intent. *Hern v. Carpenter*, Mo., 312 S.W.2d 823. To get at the true meaning of the language employed in a statute, the court must look at the whole purpose of the act, the law as it was before the enactment, and the change in the law intended to be made. *Pembroke v. Huston*, 180 Mo.627, 79 S.W.470. In ascertaining legislative intention, reference should be had to the policy adopted by the legislature in reference to the particular subject matter. *State ex rel. Lentine v. State Board of Health*, 334 Mo.220, 65 S.W.2d 943.

It is also said that provisions not found plainly written in a statute or necessarily implied from what is written will not be imparted or interpolated therein in order that existence of a right may be made to appear when otherwise, upon the face of the statute, it would not appear. *Missouri Public Service Co. v. Platte-Clay Elec. Co-op., Inc.*, 407 S.W.2d 883.

Most important here, it must be presumed that the legislature knows the existing law, and seeks to make some change therein when it enacts a statute. *Reed v. Goldneck*, 112 Mo.App.310, 86 S.W.1104. And, in construing a statute repealing one statute and substituting another, it must be assumed that the legislature intended something by repeal of an old statute and enactment of a new statute in lieu of it. *Darrah v. Foster*, Mo., 355 S.W.2d 24.

It is our opinion that in view of these rules of statutory construction the legislature intended by repealing the specific authority for these special plates that no such special plates be issued.

The fact that the legislature did not repeal subsection 3 of Section 301.137 does not change our view because that subsection only operates in reference to the repealed provisions and, therefore, could not be used in conjunction with any other statute. Subsection 3 does not by itself in any way authorize the issuance of these special plates.

Our opinion is strengthened by the fact that other types of special plates (historical plates and official plates) are also

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specifically authorized by the legislature. This shows legislative intent that the Director of Revenue is not authorized on his own to issue special plates in recognition of certain types of groups and such recognition will only be done by specific legislation.

The purpose of Section 301.130 is that the Director of Revenue is to issue a series of plates to the general public in an orderly fashion, upon payment of the regular fees, without special designation or recognition of any group or individual.

CONCLUSION

Therefore, it is the opinion of this office that the Director of Revenue, as a result of the enactment of Senate Bill No. 242 by the 75th General Assembly amending Section 301.137, RSMo, cannot issue a special series of license plates for persons who have amateur radio operators' licenses.

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

Very truly yours,



JOHN C. DANFORTH
Attorney General