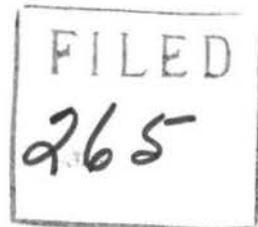


October 12, 1971

OPINION LETTER NO. 265
Answer by Letter - Park

Honorable Dee Wampler
Prosecuting Attorney
Greene County, Court House
Springfield, Missouri 65802



Dear Mr. Wampler:

This opinion is rendered pursuant to the request contained in your letter concerning the transfer of title to automobiles when registration is in the names of several persons.

The facts as related in your letter are as follows:

"It has come to my attention that the Department of Revenue, by virtue of Memorandum 14-70, dated May 12, 1970, holds that even though two individuals may be listed on a car title, the Department of Revenue will accept title if it contains only one signature of the two individuals involved."

The question presented is ". . .whether or not such transfers signed by one of several parties on a car title are legal and valid."

Section 301.210, RSMo 1969, relating to sale and transfer of vehicles, in pertinent part, reads as follows:

"1. In the event of a sale or transfer of ownership of a motor vehicle or trailer for which a certificate of ownership has been issued the holder of such certificate shall endorse on the same an assignment thereof, with warranty of title in form printed thereon, and prescribed by the director of revenue, with a

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statement of all liens or encumbrances on said motor vehicle or trailer, and deliver the same to the buyer at the time of the delivery to him of said motor vehicle or trailer."

Section 301.190, RSMo 1969 states:

"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, . . .

"2. The director of revenue shall use reasonable diligence in ascertaining whether the facts stated in such application are true, and, if satisfied that the applicant is the lawful owner of such motor vehicle or trailer, or otherwise entitled to have the same registered in his name, shall thereupon issue an appropriate certificate over his signature and sealed with the seal of his office, procured and used for such purpose. . . .

* * *

"4. It is unlawful for any person to operate in this state a motor vehicle or trailer required to be registered under the provisions of the law unless a certificate of ownership has been issued as herein provided."

Considering the language used in the statutes quoted above, it is clear that the words "the holder of such certificate" mean the owner of the motor vehicle or trailer. In cases where a vehicle is owned by more than one person, either jointly, as tenants in common or as tenants by the entirety, all of these people, collectively, are the owner of the vehicle. With respect to joint tenants, the court in *Horton v. Estate of Elmore*, 420 S.W.2d 48, 49 (K.C.Ct.App. 1967) the court said:

"One aspect of joint tenancy is that both parties presently have ownership interest in the property held; each one has present interest in the property, it is not one or the other, it is both."

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Likewise, where property is held by tenancy in common, all of the tenants are considered to be owners of the property, not merely one of them, and in such cases, a tenant in common may not transfer, sell or dispose of more than his own interest in the common property to a third person unless he is specially authorized to do so. 86 C.J.S., Tenancy in Common, §119(a). In the case of Timothy v. Hicks, 237 Mo.App. 126, 164 S.W.2d 99 (1942) the court stated:

"Cotenants do not sustain the relation of 'principal and agent' to each other nor are they 'partners', and hence, under ordinary circumstances, neither tenant in common can, in dealing with third parties, bind the estate or person of the other by any act which relates to the common property not previously authorized or subsequently ratified."

Where several persons own a motor vehicle and have a certificate of ownership issued by the Department of Revenue in the several names, these persons collectively are considered to be owners of the vehicle. Inasmuch as the statute requires the owner to endorse a certificate of ownership in order to effect its assignment, it is our view that all such owners named in the certificate of ownership must endorse the same unless there is specific authorization to the contrary given by one owner to another.

It is therefore our opinion that in the absence of specific authority given by one or more of several owners of a motor vehicle to the other, the law does not authorize the transfer of certificates of ownership of motor vehicles by endorsement of less than all of the persons named as owners in such certificates.

Very truly yours,

JOHN C. DANFORTH
Attorney General