

MOTOR VEHICLES: Dealers in motors only not required to register as "dealer" Registration of reconstructed motor vehicle.

February 1st, 1939.

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Honorable Dwight H. Brown,
Secretary of State,
Jefferson City, Missouri.

Dear Sir:

This will acknowledge receipt of your letter of January 20th, 1939, which reads as follows:

"I have been asked for an **opinion** or ruling on the matter as to whether or not individuals, firms or corporations are required to have a dealer's license in order to sell, trade or barter engines or motors

In the event you rule that individuals, firms or corporation are not required to have a dealer's license, then what duty, if any, is placed upon this department with respect to issuing certificates of title and assigning numbers? That is to say, shall we require of the purchaser of a motor or an engine from an individual, firm or corporation a notarized bill of sale or an assigned title.

You will find attached hereto a copy of a part of a letter in which this request was made. I believe this is a question for your department and kindly request that you favor me with an opinion concerning the same."

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We shall not set out the letter attached to your request, since your letter sufficiently embodies the questions.

Section 7759, R.S.Mo. 1929, defines a "dealer" to be:

"Any person, firm, corporation, association, agent or subagent engaged in the sale or exchange of new, used or reconstructed motor vehicles or trailers."

Section 7764, R.S. Mo., 1929, provides:

"All * * * * dealers shall, instead of registering each motor vehicle * * * * dealt in, make application upon a blank to be furnished by the commissioner for a distinctive number for all the motor vehicles owned or controlled by such * * * * dealer, * * * *"

Section 7773 R.S.Mo. 1929, provides for dealers to make certain monthly reports covering each motor vehicle sold by said dealer during said month.

Thus, we see that all through the act the provisions are only conditioned to apply to dealers in motor vehicles.

A motor vehicle is defined in Section 7759, R.S. Mo., 1929, as, "any self-propelled vehicle not operated exclusively on tracks." A vehicle is defined by this section to be "any mechanical device on wheels, designed primarily for use on highways, except those propelled by human power, or those used exclusively on tracks." Drawing these definitions together we see that a motor vehicle is: a self-propelled mechanical device on wheels, designed primarily for use on highways, and not used exclusively on tracks.

Under no construction can a person who deals in motors only be said to be a dealer in motor vehicles. Consequently, the provisions of Section 7764 and 7773, supra, cannot be made applicable to said persons.

Reaching this conclusion necessitates an answer to your second question. This answer is found in the definition of a "reconstructed motor vehicle" in Section 7759, supra, and the terms of Section 7761 Laws 1933-34 p. 99.

A reconstructed motor vehicle is defined as:

"A motor vehicle which shall have been assembled or constructed by means of new or used essential parts * * * * or which if originally otherwise constructed shall have been materially altered * * * * by the addition or substitution of new or used essential parts.

The placing of a new motor in a motor vehicle is reconstruction within the meaning of this definition.

Section 7761, supra, directs the commissioners to do certain things, with reference to registration of motor vehicles, and is as follows:

"Every owner of a motor vehicle or trailer, which shall be operated or driven upon the highways of this state, shall except as herein otherwise expressly provided, cause to be filed, by mail or otherwise, in the office of the commissioner, an application for registration on a blank to be furnished by the commissioner for that purpose, containing: (1) a brief description of the motor vehicle to be registered, including the name of the manufacturer, the motor number and character, and amount of motive power, stated in figures of horsepower; (2) the

name, residence and business address of the owner of such motor vehicle; (3) if said motor vehicle be a commercial vehicle the weight of the vehicle and its rated capacity of live load, in pounds or seating capacity; (4) if such motor vehicle be a specially constructed or reconstructed motor vehicle, the application shall so state and the owner shall furnish the commissioner such additional information as he shall require."

Clause four (4) of this section authorizes the commissioner to obtain from the owner of a reconstructed motor vehicle any additional information he may require in order that said vehicle may be properly registered.

When the essential part used in a reconstructed motor vehicle is the motor, the Commissioner is directed by Section 7781a, Laws of 1935, p. 299, to obtain certain information before he registers said reconstructed vehicle. The terms of this section are clear and need no comment.

CONCLUSION

Therefore, it is our opinion that a person dealing in and selling motors only, even though capable of use in motor vehicles, is not required to be registered as a dealer under the Motor Vehicle Act. That when such a motor is purchased and placed in a vehicle such reconstructed motor vehicle is required to be registered by the owner

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thereof, and that Section 7781a, supra, sets forth what information the Commissioner is to obtain from the applicant for registering before he registers said reconstructed motor vehicle.

Respectfully submitted,

APPROVED:

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(Acting) Attorney General.

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