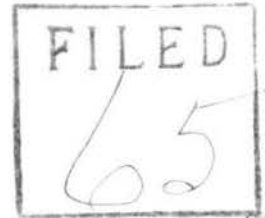


Automobiles:

1. Dealer resident of Missouri running cars from another state in Missouri to negotiate sales must use Missouri dealers licenses on them.
2. Dealer may not use dealers licenses for private purposes and pleasure.

11-23
November 14, 1933.



Mr. Robert L. Murphy
Prosecuting Attorney
Unionville, Missouri.

Dear Mr. Murphy:

We have your letter of September 15, 1933, in which is contained a request for an opinion as follows:

"We have a very troublesome problem here in my County in regard to the use of automobile dealers licenses of another state by a resident of this state who purports to be a representative of a motor company whose place of business is in another state.

The specific case that I would like to have the opinion of your department is this. A man living here in Unionville has a garage here and is a dealer in used cars. He has a place of business here in Unionville and he has purchased Missouri dealer's licenses. He claims that he represents a motor company whose place of business is in Chariton, Iowa. This man frequently brings cars from this place in Chariton, Iowa, to Unionville and vicinity to sell them. Most of them are used cars, and the law in Iowa is, as I understand it that when a licensed vehicle is sold the license goes with the car. So apparently both the license and the car belongs to the Iowa dealer. This man here in Unionville brings those used cars here to Unionville and runs them on the Iowa licenses, and his justification for doing so is that they serve the same purpose as a dealer's license, and in fact that they are dealer's tags because in Iowa dealer's licenses are used only on new cars. He justifies his use of the Iowa licenses on the grounds that he is a representative of the Iowa firm.

Is this proper where the man has a place of business in Missouri. I wish to call your attention to paragraph (a) of Section 7764 Revised Statutes of Missouri 1929 which states in part "All manufacturers and dealers shall, instead of registering each motor vehicle manufactured or dealt in, make application upon a blank to be furnished by the commissioner for all the motor vehicles owned or controlled by such manufacturer or dealer."

What is the opinion of your department as to the meaning of the phrase underlined above? It would seem to me that it would require this man to use Missouri dealer's tags on the cars that he brings down here while he is using them for demonstration purposes or otherwise.

This same individual has given us quite a lot of trouble by using his Missouri dealer's licenses for private purposes and for pleasure. He drives a car all the time and has never purchased individual license plates. When confronted with this fact he claims that he is always looking for prospects, and that as he does not keep any motor vehicle for any length of time that it would be a hardship on him as it would require that he be continually transferring license plates. Of course there is no merit in this claim and we are requiring him to buy individual license plates for his personal use. Does this meet with the approval of your department?

Will you please give me your opinion on this matter at your very earliest opportunity, as I have a case pending against this individual for operating a motor vehicle with improper license plates and would like to have your advice before proceeding with it.

Thanking you in advance, I am"

Section 7764 R. S. Mo., 1929, Art. 1, Ch. 41, provides in part as follows:

"Sec. 7764. Registration of manufacturers and dealers.-
(a) All manufacturers and dealers shall, instead of registering each motor vehicle manufactured or dealt in, make application upon a blank to be furnished by the commissioner for distinctive number for all the motor vehicles owned or controlled by such manufacturer or dealer, said application to contain: etc. etc."

Section 7758 R. S. Mo., 1929, Art. 1, Ch. 41, provides in part as follows:

"Sec. 7758. Application of law.-This article shall be exclusively controlling on the registration, regulation, operation, ownership and sale of motor vehicles, their use on the public highways, etc."

Section 7759 R. S. Mo., 1929, Art. 1, Ch. 41, provides in part as follows:

"Sec. 7759. Definitions.- **** 'Dealer.' Any person, firm, corporation, association, agent or sub-agent engaged in the sale or exchange of new, used or reconstructed motor vehicles or trailers."

We can find no decision to fit this particular situation but, construing the above statutory sections together, we are clearly of the opinion that the man referred to in your letter being a dealer must use Missouri dealers licenses on all cars "owned or controlled" by him when he drives said cars in the furtherance of his sales promotions. The language of Section 7764 is perfectly plain and unambiguous. Nowhere in the article, entitled Regulations and License Fees, is there any provision allowing a resident dealer to use the licenses of another state on cars owned or controlled by him; and since by Section 7758 said article is made exclusively controlling in such matters of registration there is no room for any other construction. The dealer in this case is a resident of Missouri and must be bound by our statutes. Whatever connections he may have with any Iowa firm cannot affect his own status if as you have stated, he himself controls the cars for the purpose of selling them as a dealer in Missouri.

As to the further question of whether a dealer may use his dealers licenses on a car driven by him for private purposes or pleasure, although we can find no decision in point, we are of the opinion that he can not.

Section 7764 R. S. Mo., 1929, Art. 1, Ch. 41, provides in part as follows:

"(b) Fees and plates for manufacturers and dealers: On the payment of a registration fee of \$21.00 there shall be assigned to such manufacturer or dealer a certificate of registration in such form as the commissioner shall prescribe, and two sets of number plates bearing such number. As many duplicate sets of number plates as may be desired may be obtained upon the payment of a fee of \$10.50 for each duplicate set.

(c) Display of duplicate number plates: Such duplicate number plates may be displayed on any motor vehicle used in the business of the manufacturer or dealer, but shall not be displayed on any motor vehicle or trailer used for the private purposes of any such manufacturer, dealer or their employees, or on any motor vehicle or trailer hired or loaned to others."

From a reading of the above sub-sections in connection with sub-section (a) of Section 7764 quoted earlier in this opinion, it

is obvious that the legislative intent was that dealers licenses could only be displayed on automobiles used in business. Section 7764 applies to dealers only as dealers in business. A dealer in his private life is of course subject to the registration laws applicable to the average individual and must obtain his license according to Section 7761 R. S. Mo., 1929, which for the purposes of this opinion we need not set out here. To construe the law in any other way would have the effect of placing dealers in a special class for all purposes, public as well as private, and such was obviously not the legislative intent. The books abound with cases holding that where possible effect must be given to the legislative intent hence our view of the present situation.

Very truly yours,

Charles M. Howell, Jr.,
Assistant Attorney General.

Approved:

Attorney General.