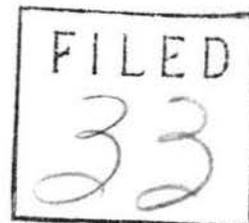


MOTOR VEHICLES:

Finance companies have the right to hold certificate of title belonging to dealers and individuals and dealers are compeled to have certificate of title in possession.

February 18, 1938



Mr. John H. Glassco,
Chief of Police,
St. Louis, Missouri.

Dear Sir:

This will acknowledge receipt of your request of February 9, 1938, for an opinion from this office which reads as follows:

"Request this department communicate with Attorney General, Jefferson City, Mo., and ask for ruling on the following:

Have finance companies right to hold Certificate of Title of used car dealer on floor plan cars?

On individual cars finance companies hold mortgage on?

Is it required by law for a used car dealer to have Certificate of Title in his possession when he has used car for sale?

Will you please furnish this department with ruling on the questions in appended report by Lieut. Jos. G. Lesyna, in charge of the Auto Theft Bureau of this department?"

The Section 7774 R.S. Mo. 1929, a part of which reads as follows:

"* * * * * Four months after this law takes effect and thereafter, it shall be unlawful for any person to buy or sell in this state any motor vehicle

or trailer registered under the laws of this state, unless, at the time of the delivery thereof, there shall pass between the parties such certificate of ownership with an assignment thereof, as herein provided, and the sale of any motor vehicle or trailer registered under the laws of this state, without the assignment of such certificate of ownership, shall be fraudulent and void. In the case of dealers, a separate certificate of ownership, either of such dealer's immediate vendor, or of the dealer himself, shall be required in the case of each motor vehicle in his possession, and the commissioner shall determine the form in which application for such certificates of ownership and assignments shall be made, in case forms differing from those used for individuals are, in his judgment, reasonably required: * * * * * ."

Page 99, Extra Session, 1933-34 Laws of Missouri, reads as follows:

"(a) 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.

(b) Upon the filing of such application, exhibition of certificate of ownership and the payment of the fees hereinafter provided, the commissioner shall assign a number to such motor vehicle, and without other expense to the applicant shall issue and deliver to the owner a certificate of registration in such form as the commissioner shall prescribe, and a plate, or set of plates, bearing such number."

Under the above sections of the Laws of Missouri, the purpose of the Act in requiring certificates of ownership was to prevent the illegal sale of motor vehicles. The Act or Acts does not require the possession of the certificate of ownership, but only for the purpose of obtaining license plates and transfer of ownership of the motor vehicle.

In construing the Act or Acts in reference to motor vehicles, the courts have held that they should go into the purpose of the Act.

In the case of *Betz v. Columbia Telephone Company*, (App.) 24 S.W. (2d) 224, the court said:

"To get at the true meaning of the language of the 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."

As stated before, the purpose of the Act or Acts in reference to transfer of motor vehicles, was to require certificate of ownership, which certificates were to be used in obtaining license plates and transfer of the ownership of the identical motor vehicle. The Act does not require possession of the certificate of title except for the purpose set out in the Motor Vehicle Act or Acts. 59 *Corpus Juris* at page 961, sets out the following:

"In construing a statute to give effect to the intent or purpose of the legislature, the object of the

statute must be kept in mind, and such construction placed upon it as will, if possible, effect its purpose, and render it valid, even though it be somewhat indefinite. To this end it should be given a reasonable or liberal construction; and if susceptible of more than one construction, it must be given that which will best effect its purpose rather than one which would defeat it, even though such construction is not within the strict literal interpretation of the statute, and even though both are equally reasonable. Where there is no valid reason for one of two constructions, the one for which there is no reason should not be adopted. The legislature cannot be held to have intended something beyond its authority in order to qualify the language it has used," citing *Betz v. Columbia Telephone Co.*, (App.) 24 S.W. (2d) 224.

CONCLUSION

In view of the authorities above set out, it is the opinion of this office that finance companies have the right to hold certificate of titles of used car dealers or floor plan cars. Also, finance companies have the right to hold certificates of titles on individual cars secured by a mortgage held by the finance company.

It is also the opinion of this office that a used car dealer is not compelled to have certificate of title in his possession when he has a used car for sale, but when he sells a car, in order to transfer ownership, he must have a certificate of title of the previous vendor or a certificate furnished by the motor vehicle department as set out in Section 7774 R.S. Mo. 1929.

Respectfully submitted,

W. J. BURKE
Assistant Attorney General

APPROVED:

J. E. TAYLOR
(Acting) Attorney General