

OPINION NO. 74-059

Syllabus:

The fee, for a late application for a certificate of title to a motor vehicle under R.C. 4505.06, has no application to the late delivery of a certificate of title by an insurance company under R.C. 4505.11(C), when the insurance company has determined that a vehicle covered by one of its policies has been damaged beyond repair.

To: C. Donald Curry, Registrar, Bureau of Motor Vehicles, Columbus, Ohio
By: William J. Brown, Attorney General, July 22, 1974

Your request for an opinion reads as follows:

"We are requesting a formal opinion regarding the relationship and effect the recently

Amended House Bill No. 651 has on the Salvage Title Law (House Bill No. 85).

"There are many interpretations as to the procedure of implementation, by the clerks of courts, of these two (House Bill No. 651 and House Bill No. 85) pieces of legislation.

"This request was initiated as a result of an opinion #72-74 given by the Lorain County Prosecutor to the Lorain County Clerk of Courts regarding the above mentioned laws (copy enclosed). The Bureau of Motor Vehicles, through its title department issued a directive to all Ohio Clerks of Courts, point #4 of said directive is in direct conflict with the Lorain County Prosecutor's opinion."

Your question involves the interrelation of two sections of the Certificate of Motor Vehicle Title Law, R.C. 4505.06 and R.C. 4505.11, both of which have been recently amended by the General Assembly. Prior to amendment in 1971, R.C. 4505.06 provided that, in all cases of transfer of a motor vehicle, an application for a certificate of title must be filed within seven days after delivery of the vehicle. 133 Ohio Laws, 2696-2697. By the 1971 amendment, Amended House Bill No. 651, the time within which to apply for the certificate was extended to fifteen days, but the clerk was directed to collect a fee of five dollars whenever the application was not filed within the fifteen days. 134 Ohio Laws, 2126-2130; see Opinion No. 72-044, Opinions of the Attorney General for 1972, and Opinion No. 73-010, Opinions of the Attorney General for 1973. By a further amendment in 1973, House Bill No. 31, the time for filing an application for a certificate of title was further extended to twenty days, and at present the pertinent part of R.C. 4505.06 reads as follows:

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"In the case of the sale of a motor vehicle by a dealer to a general purchaser or user, the certificate of title shall be obtained in the name of the purchaser by the dealer upon application signed by the purchaser.

"In all other cases such certificates shall be obtained by the purchaser. In all cases of transfer of motor vehicles the application for certificate of title shall be filed within twenty days after the assignment or delivery of such motor vehicle. Whenever an application for a certificate of title is not filed within such period, the clerk shall collect a fee of five dollars for the issuance of the certificate. The fee shall be in addition to all other fees established by Chapter 4505. of the Revised Code, and shall be retained by the clerk. The registrar of motor vehicles shall provide, on the certificate of title form prescribed by section 4505.07 of the Revised Code, language necessary to give evidence of the date on which the assignment or delivery of such motor vehicle was made.

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The other section of the Certificate of Motor Vehicle Title Law, R.C. 4505.11, was amended in 1972 to provide for the issuance of a special salvage certificate of title. Under this amendment, an insurance company, which determines that a motor vehicle, covered by one of its policies, has been damaged beyond repair, is required to purchase the damaged vehicle from the owner and to receive the owner's certificate of title, which it shall, within ten days, deliver to the clerk of courts. If the insurance company thereafter decides to sell the vehicle to a salvage dealer, it shall obtain from the clerk of courts a special salvage certificate of title, containing the same information as the original certificate, which it shall assign to the salvage dealer as evidence of ownership. See Amended Substitute House Bill No. 85, 134 Ohio Laws, 1160-1172. The portion of the amendment pertinent to your question is R.C. 4505.11(C) which provides:

"(C) When an insurance company declares it economically impractical to repair such a motor vehicle and has paid an agreed price for the purchase of said vehicle to any insured or claimant owner, such insurance company shall receive the certificate of title and the motor vehicle. Within ten days the insurance company shall deliver said certificate of title to the clerk in the county where it was issued. If the insurance company sells the motor vehicle for any reason, it shall make application for a salvage certificate of title on a form, prescribed by the registrar of motor vehicles, that shall be a color easily distinguished from the original certificate of title, and bear the same number and information as the original certificate of title. The salvage certificate of title shall be assigned by the insurance company to a salvage dealer or any other person for use as evidence of ownership upon the sale or other disposition of any such salvage motor vehicle, and such title shall be assignable to any other person. The clerk of court of common pleas shall charge the insurance company a fee of four dollars for the cost of processing each such certificate of title."

The question is whether the five dollar penalty, provided by R.C. 4505.06 for a late application for a certificate of title, also applies to a late delivery of the certificate by an insurance company under R.C. 4505.11(C). It seems to me that a mere reading of the question indicates that the answer must be in the negative. R.C. 4505.06 specifically provides that, upon the sale of a motor vehicle, either the dealer or the purchaser shall apply to the clerk of courts for a new certificate of title within twenty days after transfer of title, and that the clerk shall collect a five dollar fee when the application is late. On the other hand, R.C. 4505.11(C) provides, that when an insurance company decides that a motor vehicle is damaged beyond repair, it shall purchase the vehicle from the owner, obtain the owner's certificate of title, and deliver the certificate of title to the clerk of courts within ten days. The acts prescribed

by the two statutes are different, the periods for performance are different, and the penalty is specifically applicable only to the first. It is true that R.C. 4505.11(C) also requires the insurance company to apply for a salvage certificate of title if it decides to sell the damaged vehicle. The provisions of R.C. 4505.06 would probably be controlling in that case, but I do not understand it to be involved in your present question.

The following comments in a recent opinion, which also discussed the interpretation of R.C. 4505.06, may be repeated here (Opinion No. 71-087, Opinions of the Attorney General for 1971):

"It is well settled that courts will interpret statutes so as to avoid ambiguity or conflict between provisions (50 O. Jur. 2d, Statutes, Sections 174, 176); that enactments of the General Assembly are to be interpreted so as to produce a reasonable and consistent whole (50 O. Jur. 2d, Statutes, Section 238; State, ex rel. Haines v. Rhodes, 168 Ohio St. 165, 170-171 (1958); * * *

When the two statutes with which we are concerned are read as a consistent whole, the late filing fee of R.C. 4505.06 has no application to the provision of R.C. 4505.11(C) requiring an insurance company to deliver to the clerk of courts the certificate of title of a vehicle which is beyond repair. The penalty, if any, for failure to deliver such certificate within the ten days allowed under R.C. 4505.11(C) is to be found in the provisions of R.C. 4505.18(D) and (E) and R.C. 4505.99(C).

In specific answer to your question it is my opinion, and you are so advised, that the fee, for a late application for a certificate of title to a motor vehicle under R.C. 4505.06, has no application to the late delivery of a certificate of title by an insurance company under R.C. 4505.11(C), when the insurance company has determined that a vehicle covered by one of its policies has been damaged beyond repair.