

4189.

APPROVAL, BONDS OF CITY OF GARFIELD HEIGHTS, CUYAHOGA COUNTY, OHIO, \$22,000.00.

COLUMBUS, OHIO, April 25, 1935.

*Industrial Commission of Ohio, Columbus, Ohio.*

4190.

MOTOR VEHICLES—REGISTRATION REQUIRED OF MOTOR VEHICLES PURCHASED WITHOUT STATE BUT OPERATED IN THIS STATE—(O. A. G. 1927, Vol. III, P. 2093 APPROVED).

*SYLLABUS:*

*Motor vehicles or used motor vehicles purchased outside the State of Ohio, and brought into this state, must first be registered before they may be operated on the highways of this state. If the car has never before been operated on the highways of this state or if the title thereto has never been transferred within the state of Ohio, registration may be made by the filing by the owner of a sworn statement as authorized by Section 6310-13, General Code. (O. A. G. 1927, Vol. III, page 2093, first branch of the syllabus approved and followed.)*

COLUMBUS, OHIO, April 26, 1935.

HON. FRAZIER REAMS, *Prosecuting Attorney, Toledo, Ohio.*

DEAR SIR:—I am in receipt of your communication which reads as follows:

“For reasons which are undisclosed but which may be easily guessed, the practice has sprung up along the border between Michigan and Ohio whereby a considerable number of residents of one state purchase automobiles in the neighboring state. Presently, the purchaser of a car in Michigan will call upon the Clerk of Courts in Ohio (especially Lucas County), to issue a license, and in support of his title will offer a sworn statement of ownership.

Not long ago certain federal agents who were tracing stolen cars instructed the Clerk in no uncertain terms to issue no license upon a car purchased in Michigan unless the application was accompanied by a Certificate of Title issued by the Secretary of State of Michigan. Since that time the Clerk has been requiring such ‘Michigan titles’ before issuing licenses.

Accordingly, one dealer in Monroe, Michigan, to-wit, the Monroe Automobile Company, 415 South Monroe Street, registered dealers in Michigan for 1935, with dealer’s license No. 3967 and dealer’s plates No. 438 (as duly certified by Orville E. Atwood, Secretary of State at Lansing), applied to the Secretary of State on behalf of one Elmer Ortendahl, purporting to be a resident of Monroe, Michigan, and the purchaser of a car from said dealer, for a ‘Michigan title’; the object being to furnish such ‘Michigan title’ to the Clerk of

Courts in Lucas County for the purpose of obtaining an Ohio license. Thereupon, the Secretary of State of Michigan replied as follows:

April 3rd, 1935.

Monroe Automobile Company,  
415 S. Monroe St., Monroe, Michigan.  
Attention—R. J. Camar

Dear Sir:

We are in receipt of your letter of March 30th, and return herewith application for new title executed by Elmer Ortendahl, covering Ford Tudor, motor No. 1701642, and advise it is necessary that you present the enclosed title, together with bill of sale and enclosed certification regarding your registration to the Ohio authorities.

Very truly yours,

Orville E. Atwood,  
SECRETARY OF STATE.

Similar situations have arisen with reference to cars purchased in Indiana and Illinois although I do not know that the authorities in the two latter states have refused to issue Certificates of Title as has the Secretary of State of Michigan.

For your information, the federal agents claimed that the issuance of Ohio licenses upon mere sworn statements has facilitated the operation of automobile thieves (two cars licensed that way in Toledo having recently been recovered by them), and the insistence upon the production of a 'Michigan title' before issuing an Ohio license would seriously hamper such thievery.

Naturally, the Toledo official is anxious to cooperate as far as he lawfully can with the federal agents, but at the same time he is besieged with a large number of demands for Ohio licenses for cars purchased in Michigan.

I am unaware whether there is any reciprocity agreement between Ohio and Michigan relative to the issuance of auto licenses. If there is such an agreement I suppose it would control. If not, may the Clerk of Courts, lawfully refuse to issue an Ohio license upon a car purchased in Michigan in the absence of a Certificate of Title issued by the State of Michigan?

In case your answer is in the negative, may I inquire if you know of any way in which the Ohio Clerk may cooperate with the federal Department of Justice and other authorities in their efforts to deter automobile stealing or bootlegging or both?

Because of the large number of applications for licenses now pending, an early reply would be appreciated."

I call your attention to an opinion of my predecessor in office to be found in Opinions of the Attorney General for 1927, Vol. III, page 2093, which held as disclosed by the first and third branches of the syllabus:

"1. Motor vehicles or used motor vehicles purchased outside the State of Ohio, and brought into this state, must first be registered before they may be operated on the highways of this state. If the car had never before been operated on the highways of this state or if the title thereto had never before been transferred within the State of Ohio, registration may be made by the filing by

the owner of a sworn statement as authorized by Section 6310-13, General Code.

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3. Motor vehicles or used motor vehicles brought into this state, for which licenses have not theretofore been granted in the state from which they are brought should be registered as provided by the laws of this state and if the car had never been operated on the highways of this state or if the title thereto had never been transferred in this state registration should be made by the filing of a sworn statement as provided by Section 6310-13, General Code."

These two branches of the syllabus were in response to the following questions asked by the Bureau of Inspection and Supervision of Public Offices:

"We respectfully request your written opinion upon the following inquiries received at this office from the Clerk of Courts of Williams County:

1. How shall I treat cars that are bought by Ohio parties in Indiana and Michigan? It has been our custom to require the seller to transfer their title to the buyer in the same manner as though the Ohio party was a resident of their state. Then we use this title for our authority in accepting a sworn statement of ownership from the Ohio purchaser, attach the title to our copy of the sworn statement and file in the usual manner. There are no titles given with new cars purchased by Ohio parties in these states and we have held that the dealer should execute an Ohio "New Bill of Sale", when accepting this class of business.

2. How shall we treat cars that are purchased in states that do not require a title or bill of sale, such as the State of Illinois?" "

It was stated at page 2099:

"Inasmuch as the statutes of Ohio *have no extraterritorial effect*, the bill of sale spoken of in the statutes refers only to bills of sale made when transfers have been made in this state and the sworn statement of ownership refers to the original sworn statement made when the car was first operated on the highways of this state. *A person who purchases a motor vehicle outside the state would not be required so far as the Ohio statute is concerned to procure a bill of sale therefor nor would the seller be required to give such bill of sale;* \* \* \*

A person who purchases a car outside the state, however, must necessarily procure the necessary information so that he can file a sworn statement of ownership when he brings the car into this state, else the car can not be registered or operated on the highways of this state. The sworn statement of ownership must contain:

' \* \* \* the name, residence of each and every bona fide owner or owners of the "used motor vehicle", the name of the manufacturer or make, the manufacturer's number, the engine or motor number as well as any other numbers thereon, the horse power of such "used motor vehicle", and a general description of the body thereof, \* \* \* '

as provided in Section 6310-13, supra.

A person coming into this state or a non-resident of the state, desiring to register a car in this state and operate the same on the highways thereof, if the car has not been purchased in this state or has never been transferred in this state, obviously could not evidence his ownership by the filing of bills of

sale, because none would be in existence, *but he should file a sworn statement of ownership as prescribed by the statutes.*" (Italics the writer's)

It was further stated at page 2103:

"Where the term 'bill of sale' or 'sworn statement' is used in the statutes in this state with reference to the transfer of title or registering of motor vehicles, a 'bill of sale' or 'sworn statement' as defined in the statutes is meant, the outline of the contents of which is set forth in Opinions, Attorney General, 1923, p. 452 and Opinions, Attorney General, 1925, p. 415. *The sections of the General Code in question do not refer to or include bills of sale or sworn statements authorized or required by the laws of any other sovereignty.*" (Italics the writer's)

Section 6310-13, General Code, upon which the above opinion was predicated is identical in its provisions today, it providing:

"No person residing in this state shall drive, use or operate, a 'motor vehicle' or 'used motor vehicle' upon the public highways thereof, without having a 'bill of sale' for the motor vehicle as defined in this act, or without having first filed with the clerk of courts of the county in which his residence is established, a sworn statement containing the name, residence of each and every bona fide owner or owners of the 'used motor vehicle' the name of the manufacturer or make, the manufacturer's number, the engine or motor number, as well as any other numbers thereon, the horse-power of such 'used motor vehicle' and a general description of the body thereof, and obtain from said clerk, a certified copy of such statement."

The above opinion was also followed by my predecessor in office in Opinions of the Attorney General for 1927, Vol. III, page 2111, and in Opinions of the Attorney General for 1928, Vol. II, page 1546. The opinion was also cited with approval in my opinion to be found in Opinions of the Attorney General for 1933, Vol. III, page 1748.

It should also be pointed out that before the owner of a motor vehicle is permitted to operate or drive the same on the public highways of the state it is necessary that a license be procured, as provided by Section 6294 of the General Code as amended by House Bill No. 255 of the regular session of the 91st General Assembly, which provides inter alia with reference to the Sales Tax Law:

"Every owner of a motor vehicle and every person mentioned as owner in the last certificate of title, bill of sale, or sworn statement of ownership of a motor vehicle which shall be operated or driven upon the public roads or highways of this state shall before the first day of January of each year, except as herein otherwise expressly provided, cause to be filed, by mail or otherwise, in the office of the registrar or a deputy registrar, a written application in triplicate for registration for the following year, beginning the first day of January of such year, on blanks to be furnished by the registrar for that purpose, containing the following information:

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\* \* \*

(5) Date of purchase of such motor vehicle, and if such car was pur-

chased after January 27, 1935, by a resident of this state evidence of the payment of the three per cent tax levied in section 5546-2 of the General Code must be presented in the form prescribed by law or by rule of the registrar.  
\* \* \*

If such application is not in proper form, or if proper bills of sale or sworn statement of ownership or proper certificate thereof, or certificate of title or memorandum certificate does not accompany the application, or if an applicant presenting a bill of sale dated after January 27, 1935, fails to show either payment of the three per cent sales tax or a reason for an exemption from such tax to be presented in a manner to be prescribed by the tax commission, \* \* \* the license shall be refused. \* \* \*

There is no reciprocity agreement between the state of Ohio and the state of Michigan relative to registration or the issuance of auto licenses. Therefore, it is my opinion, following opinions of my predecessor in office, that the Clerk of Courts may not lawfully refuse to register a motor vehicle purchased in Michigan merely for the reason that a Michigan Certificate of Title is not presented to the Ohio Clerk of Courts. In other words, the Ohio law provides that a sworn statement of ownership of a motor vehicle is sufficient when the car has never before been operated on the highways of the state of Ohio or never had the title thereto transferred within the state of Ohio. And there is no requirement in the Ohio law that foreign bills of sale or foreign certificates of title be presented to the Clerk of Courts for the registration of such motor vehicles. Furthermore there is no such requirement before a motor vehicle license can be issued.

If the present law relative to registration of motor vehicles purchased outside the state and the licensing of motor vehicles has facilitated the operation of automobile thieves, it appears to me that the only possible way of curing the alleged evil would be by legislation by the General Assembly. Although the duty of the Clerk of Courts in registering motor vehicles and the duty of the Registrar and Deputy Registrars in issuing license plates is undoubtedly of a ministerial nature, nevertheless, if there is knowledge on the part of the officials that a motor vehicle is a stolen one, even though a sworn statement of ownership is regular on its face, there would be no duty of registration or licensing, and the police officials or the Department of Justice agents should be immediately notified. It is also the practice, especially in border counties, if there are suspicious circumstances present to check with the police officials prior to filing such sworn statements of ownership, in order to prevent traffic in stolen cars.

Respectfully,

JOHN W. BRICKER,  
*Attorney General.*