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MOTOR VEHICLE — PASSENGER CAR OWNED BY DEALER, BEARING DEALER'S LICENSE PLATES, DULY ASSIGNED, MAY BE OPERATED BY ANY PERSON FOR ANY LAWFUL PURPOSE — SECTION 6301-1a G.C.

SYLLABUS:

*Under the provisions of Section 6301-1a, General Code, a passenger car owned by a dealer and bearing dealers' license plates duly assigned to such dealer may be operated by any person for any lawful purpose.*

Columbus, Ohio, June 13, 1941.

Hon. Harold K. Bostwick, Prosecuting Attorney,  
Chardon, Ohio.

Dear Sir:

This will acknowledge receipt of your request for my opinion as follows:

"A motor vehicle dealer as defined in Section 6302-1 G.C. properly licensed as such under Section 6302-2 G.C. et seq. being the owner of several motor vehicles, all being held for sale, and each bearing the dealer's placards, permits a prospective purchaser, whose purchasing funds are located in a bank in a nearby town, to drive, unaccompanied, one of said motor vehicles, which he seemed interested in purchasing, to said town with the understanding that if the motor vehicle operated to the satisfaction of said prospective purchaser, he would withdraw sufficient of said funds from said bank, return, pay for and receive certificate of title to said motor vehicle; that if said motor vehicle did not operate to his satisfaction he would return and redeliver said motor vehicle to said dealer.

I should like your opinion on the following:

1. Did the dealer violate Section 6301-1a at any time before said prospective purchaser reached said bank?
2. Did the prospective purchaser violate Section 6301-1a at any time before he reached said bank?"

Section 6301-1a, General Code, provides:

"Any placards issued by the registrar and bearing the distinctive number assigned to a manufacturer or dealer pursuant to the provisions of Section 6301 of the General Code may be displayed on any motor vehicle, other than commercial cars, owned by the manufacturer or dealer or lawfully in the possession or control of the manufacturer, his agent or employe, or the dealer, his agent or employe and shall be displayed on no other motor vehicle. Such placards may be displayed on commercial cars only when such cars are in transit from a manufacturer to a dealer, or from a dealer to a purchaser, or when such cars are being demonstrated for sale or lease and shall not be displayed when such cars are being used for delivery, hauling, transporting or other commercial purpose."

The penalty for improper use of dealers' plates is set forth in Section 12618-2, General Code, which provides:

"Whoever displays the placards bearing the distinctive number or identification mark belonging to a manufacturer or dealer, contrary to the provisions of Section 6301-1a of the General Code shall be guilty of a misdemeanor and shall be fined twenty-five dollars, and for a subsequent offense shall be fined not less than fifty dollars or more than five hundred dollars or imprisoned for sixty days, or both."

Although you do not so state, I assume you are referring to a pas-

senger car rather than a commercial car.

It will be noted that in so far as a passenger car is concerned, dealers' plates may be displayed thereon if such motor vehicle is owned by the dealer or lawfully in the possession or control of the dealer, his agent or employe. If such car is owned by the dealer, Section 6301-1a, supra, places no restriction on the use of the vehicle. Furthermore, no limitation is found in the statute as to the person operating the same. Consequently, if the motor vehicle in question is owned by the dealer, no offense has been committed either by the dealer or the person operating the same.

Section 6290-4, General Code, provides:

"No person acquiring a motor vehicle from the owner thereof, whether such owner be a manufacturer, importer, dealer or otherwise, hereafter shall acquire any right, title, claim, or interest in or to said motor vehicle until he shall have had issued to him a certificate of title to said motor vehicle, or delivered to him a manufacturer's or importer's certificate for the same; nor shall any waiver or estoppel operate in favor of such person against a person having possession of such certificate of title or manufacturer's or importer's certificate for said motor vehicle for a valuable consideration. No court in any case at law or in equity shall recognize the right, title, claim, or interest of any person in or to any motor vehicle, hereafter sold or disposed of, or mortgaged or encumbered, unless evidenced by a certificate of title or manufacturer's or importer's certificate duly issued, in accordance with the provisions of this chapter."

The manner in which title to a motor vehicle may be acquired is set out in the Certificate of Title Law, Sections 6290-2 to 6290-20, inclusive, General Code. Until the provisions of such law are complied with and a certificate of title has been issued to the purchaser, ownership of the motor vehicle remains with the dealer. In the situation you have presented, the dealer has not been divested of ownership and such motor vehicle properly bears dealers' license plates. Consequently, it appears that no offense has been committed either by the dealer or by the prospective purchaser.

I am, therefore, of the opinion that under the provisions of Section 6301-1a, General Code, a passenger car owned by a dealer and bearing dealers' license plates duly assigned to such dealer may be operated by any person for any lawful purpose.

Respectfully,

THOMAS J. HERBERT,  
Attorney General.