

727

MOTOR VEHICLES—REGISTRAR—NOT AUTHORIZED TO COLLECT \$1.00 FEE FROM HOLDERS OF SPECIAL RESERVED LICENSE PLATES — 1952 REGISTRATION YEAR—IF DECALCOMANIAS ARE ISSUED IN LIEU OF LICENSE PLATES—SECTION 6294 G. C.

SYLLABUS:

The registrar of motor vehicles is not authorized to collect a one dollar fee from the holders of special reserved license plates under the provisions of Section 6294, General Code, during the 1952 registration year, if decalcomanias are issued in lieu of license plates.

Columbus, Ohio, September 11, 1951

Mr. R. E. Foley, Registrar, Bureau of Motor Vehicles
Columbus, Ohio

Dear Sir:

I have before me your request for my opinion which reads in part as follows:

"Amended Substitute Senate Bill No. 8, enacted by the 99th General Assembly, gives the Registrar the authority to issue a decalcomania or sticker in lieu of metal license plates for the years 1952 and 1953. The Registrar therefore proposes to issue a decalcomania and not a metal license plate for the 1952 registration year; he proposes to issue a decalcomania to the owners of special reserved license numbers through the Bureau of Motor Vehicles and he also proposes to issue decalcomanias without numbers through the Deputy Registrars' offices.

"To the holders of special reserved license numbers the Registrar proposes to mail applications together with a letter of instruction explaining the procedure for the proper execution of such application. Upon receipt of the completed application and the proper fees including the \$1.00 fee for the special license number referred to in Section 6294 of the General Code, the Registrar will issue a decalcomania showing the special reserved license number and will make proper notation in his records of the reservation of that special number.

"If the holder of a special reserved number does not wish to retain that number as a special reserved number in 1952, the Registrar proposes to instruct that person to write the word 'Release' across the face of the application mailed to him by the Registrar showing the special number, sign the application and return it to the Registrar. A second application will be filled out by such person in a Deputy Registrar's office. The Deputy Registrar will issue a decalcomania and collect only the \$10.00 fee and indicate on the decalcomania the 1951 license number.

"Attached herewith are copies of the various forms used in connection with the reservation and issuance of a special reserved license number. These forms indicate the amount of work involved in the reservation, issuance and maintaining of the proper records in the Registrar's office of the holders of special reserved numbers.

"In your opinion is the Registrar required to collect the \$1.00 fee for special reserved license numbers indicated in Section 6294 of the General Code during the 1952 registration year?"

I am aware that it has long been the established custom of the Bureau of Motor Vehicles to maintain a list of certain reserved numbers to accommodate those registrants of motor vehicles who desire to retain the same license plate numbers upon their automobiles from year to year. This custom was recognized by the Ninety-eighth General Assembly, which body provided that those applicants for certificates of registration, who requested that certain license numbers be issued to them, should be charged a fee not to exceed one dollar "for additional services required in the issuing such licenses." See Section 6294, General Code, as amended by 123 Ohio Laws, 457, which reads in part as follows :

"The registrar shall be allowed a fee not to exceed one dollar for each application received by him, for special reserved license plate numbers and the issuing of such licenses, in the several series as he may designate. Such fee shall be in addition to the license tax and shall be for the purpose of compensating the bureau of motor vehicles for additional services required in the issuing of such licenses. * * *"

The above quoted amendment states specifically that the fee allowed shall be for the purpose of compensating the bureau for "additional services *required* in the *issuing* of such licenses." (Emphasis added.) In view of the fact that the practice of issuing special reserved license plate numbers had been established long prior to the above quoted amendment, it may be assumed that the legislature prescribed a fee for additional services required in the issuance of such plates, in contemplation of the existing practice.

I note by the copies of the forms used by the Bureau, which are attached to your request for my opinion, that the reservation and issuance of special reserved license plate numbers consists of the following steps :

1. Maintenance of a list of all special reserved numbers.
2. Assignment of special reserved numbers to applicants in response to requests from registrants whose numbers had not previously been reserved.
3. Mailing of applications for specified license plates together with letter of instructions and return envelope to all names on the list of special reserved numbers, at the beginning of each registration period.
4. Receipt of applications and fees from those registrants who desire their names to be maintained on the special reserved license plate number list or release of such numbers by those

registrants who do not desire to have their names retained on such list.

5. Maintenance of warehouse facilities for all special reserved license plates.
6. Extraction from the warehouse supply of each special reserved license plate as the applications are received.
7. Mailing of special reserved license plates.

Your request for my opinion asks whether the registrar is "required" to collect the one dollar fee for special reserved license numbers during the 1952 registration year. Under the terms of that section the registrar shall be "allowed" a fee not to exceed one dollar, thus implying that the registrar shall set a fee commensurate with the expense of such additional services which are required in the issuance of such licenses. By stating the explicit purpose of the fee, i.e., "compensating the Bureau of Motor Vehicles for additional services *required* in the *issuing* of such licenses," that section indicates that the legislature intended the additional expense necessitated by those registrants requesting special license numbers to be borne exclusively by the registrants who received such license plates. It should also be observed that the specific language of the statute limits the purpose of the fee to the issuance of the licenses rather than the reservation of a particular number.

The terms of the section stating that the fee is for the issuance of such licenses, when considered in the light of the intent of the legislature to correlate the fees collected to the additional services required, would seem to indicate that if no additional services were required, no fee would be allowed.

Webster's New International Dictionary defines the word "require" when used in the instant case, as follows:

"To demand or exact as indispensable, necessary, or appropriate;"

The statute by which the registrar is authorized to furnish decalcomanias in lieu of license plates is very similar to former Section 6290-1a, General Code, as enacted by the Ninety-fifth General Assembly in 120 Ohio Laws, 5. The custom of issuing special plates to certain registrants was existent at that time, however the section allowing a fee had not yet been enacted. At that time the holders of special plates obtained their supple-

mentary insignia of registration through the deputy registrars in the same manner as did all other registrants. This indicates that at that time no additional services were required for the holders of special plates, for the reason that there was no issuance of plates.

Your request reveals that in the event a holder of a special reserved plate does not desire to retain his number as a special reserved number, the decalcomania would be issued by the deputy registrar at no additional cost to the registrant. This procedure would obviate the need for additional services and suggests that all decalcomanias could be issued through the deputy registrars as was done in previous years when metal tags were not used.

Since during the registration year 1952 the issuance of decalcomanias to holders of special reserved plates can be accomplished in the same manner as the issuance to all other registrants, I am unable to define the proposed extra services as being "indispensable, necessary or appropriate," within the common definition of the word "required."

I conclude, therefore, that the additional insignia in lieu of metal license plates may be furnished during the registration year of 1952 without any additional services which would be "required" within the meaning of Section 6294, General Code, which allows a fee to compensate the Bureau for such required additional services.

I am aware that there are many 1951 special reserved license plates available for issuance to registrants under the provisions of Section 6290-1a, General Code, as amended by the Ninety-ninth General Assembly, which reads in part as follows :

" * * * In case of registration of a motor vehicle, not registered by the applicant in this state during the 1951 registration year, the registrar, at the time of the issuance of the certificate of registration therefor, shall furnish license plates as provided in other sections of the General Code and the additional insignia as provided in this section. * * *"

If applications are made for special reserved license plates for motor vehicles which were not registered during the year 1951, the processing of those applications would require the actual physical issuance of metal tags and those registrants would therefore be required to pay the additional one dollar fee.

The specific language of your request for my opinion is whether the registrar is "required" to collect the one dollar fee provided by Section 6294, General Code, in a year in which no new license plates are issued. The registrar, of course, is never required to collect the fee in any year. The real question which you present is whether he is authorized to collect the fee during the 1952 registration year. Since I find that there will be no additional services required in the issuing of special licenses in 1952, it is my opinion that the registrar is not authorized to collect the fee.

In answer to your request you are therefore advised that the registrar of motor vehicles is not authorized to collect a one dollar fee from the holders of special reserved license plates under the provisions of Section 6294, General Code, during the 1952 registration year, if decalcomanias are issued in lieu of license plates.

Respectfully,

C. WILLIAM O'NEILL
Attorney General