

Ohio; or to start a new chain of title where it had been broken by reason of a car having been taken out of the state after once having been owned in this state, then transferred while out of the state at least once and again returned to the state and operated on the highways of the state, or sold or transferred within the state;

In specific answer to your question, I am of the opinion that under no circumstances is a clerk of courts justified in permitting the filing of the bill of sale for a "used motor vehicle" or a "motor vehicle" unless it be accompanied by the proper evidences of title as provided by law.

Respectfully,
EDWARD C. TURNER,
Attorney General.

1189.

BILL OF SALE—JUNK DEALER—WHEN SELLING "USED MOTOR VEHICLE" OR A REBUILT CAR MUST EXECUTE A BILL OF SALE.

SYLLABUS:

1. *A junk dealer, who buys a "used motor vehicle", even though he intends at the time to junk the car, should secure a bill of sale therefor, the same as though he had bought it for resale.*

2. *A junk dealer who purchases a "used motor vehicle" and who later replaces the motor or other substantial part of the car with a motor or other substantial part of another car or cars is required when transferring title of such rebuilt car to make and execute a bill of sale therefor, setting forth the changes and alterations in the finish, design or appearance of the car, and deliver the same to the purchaser, together with all former bills of sale and sworn statements, or certified copies thereof, for each one of the cars, substantial parts of which have become a part of the rebuilt car.*

3. *A junk dealer selling parts of junked cars is not required to accompany such sales with bills of sale.*

4. *If a junk dealer sells a car as a complete unit, that is, a car capable of being propelled or drawn by power other than muscular power (Section 6290, General Code), he is required to execute a bill of sale therefor and deliver the same to the purchaser together with all former bills of sale which had theretofore been issued for the car as a complete unit, or certified copies thereof, even though he has purchased such car as junk.*

COLUMBUS, OHIO, October 22, 1927.

HON. FRANK P. COPE, *Prosecuting Attorney, Carrollton, Ohio.*

DEAR SIR:—This will acknowledge receipt of your communication which reads as follows:

"Under date of June 21, 1927, I note that you rendered opinion No. 648 to the commissioners of motor vehicles on the question of the transfer and exchange of used motor vehicles as defined in Section 6310-3.

The question now arises as to just how far the term 'used motor vehicles' is applicable to worn out or dilapidated cars. For instance, a junk dealer buys a junk car for \$10.00 or \$15.00, replaces the motor and other parts from

another junk car and sells the same, what is to be done in regard to the bill of sale?

Second: The junk dealer buys a junk car, stores it on his property and sells parts therefrom; is it necessary for him to obtain a bill of sale with the purchase of this vehicle?

Third: Where the junk dealer buys a car absolutely for junk and proceeds to junk the same for the material contained therein; very often the junk dealer will buy a car for junk and some other individual will come around and wish to buy the car from him to take off the parts for repairs. This question is causing considerable difficulty in this county and your speedy reply will be greatly appreciated."

Before taking up your specific question, I desire to quote several sections of the law applicable thereto:

Sec. 6290. "Definitions of terms, as used in this chapter and in the penal laws, except as otherwise provided:

* * * * *

2. 'Motor vehicle' means any vehicle propelled or drawn by power other than muscular power, except road rollers, traveling power plants not designed for or employed in general highway transportation, traction engines and agricultural tractors."

Sec. 6310-3. "* * * The term 'used motor vehicle' as used in the provisions of this chapter relating to 'bills of sale' shall include all 'motor vehicles,' which have been sold or transferred by a manufacturer or his agent, an importer or his agent, a distributor, dealer or subdealer in motor vehicles, duly registered as a manufacturer or dealer under the provisions of this chapter, to a general purchaser or user and which is in possession of such general purchaser or user or in possession of any subsequent purchaser or transferee of such motor vehicle."

Sec. 6310-5. "It shall be unlawful for a corporation, partnership, association, or person, the manufacturer of motor vehicles, or the importer of motor vehicles, to sell, convey, lease, give away, transfer or exchange a motor vehicle, directly or through an agent or agency of such manufacturer or importer, or other person, unless such manufacturer, corporation, partnership, association, person or importer or the agent of either, shall, at or before such sale, conveyance, transfer, lease, gift, exchange or passage of title, execute, in the presence of two witnesses, a bill of sale in duplicate, and deliver both copies to the purchaser, buyer, transferee, or person receiving such motor vehicle. Such bill of sale shall contain the name of the manufacturer or maker, the manufacturer's number, the engine or motor number, as well as any other numbers thereon, and the horse-power of such motor vehicle with a general description of the body thereto, the name and residence address of the purchaser, buyer, lessee, transferee, or person receiving such motor vehicle, together with a full account of any other number or marks on appliances attached thereto, which may identify or tend to identify such motor vehicle. If such motor vehicle was imported, the bill of sale in addition to the above requirements, shall contain the name of the importer and the name of the city and country where such manufacturer is situate, the name of the port of exportation, and the name of the port of importation, the name of the manufacturer or maker, manufacturer's number, the engine

or motor number and the horse-power of such motor vehicle, the name and address of the original purchaser, buyer, transferee, or person receiving such motor vehicle from the manufacturer, together with a full account of any other number or marks thereon, which may identify or tend to identify such motor vehicle."

Sec. 6310-7. "Each corporation, partnership, association, or person, in all sales, conveyances, transfers, gifts, exchanges of, or transactions in which title to a 'used motor vehicle' passes, shall execute in the presence of two witnesses a 'bill of sale,' in duplicate, and deliver the same to the corporation, partnership, association or person purchasing, receiving or obtaining such used motor vehicle, at or before such sale, conveyance, transfer, gift, exchange or passage of title; such 'bill of sale' shall contain the name of the manufacturer or maker, the manufacturer's number, the engine or motor number as well as any other numbers thereon, the horse-power of such motor vehicle, a general description of the body, the type and model, together with any other numbers or marks on appliances attached thereto which may tend to identify such motor vehicle; the name or names and residence or residences of each and every bona fide owner or owners of such used motor vehicle, beginning with the original or first purchaser of such used motor vehicle from the manufacturer or importer, or the direct agent or agents or either, and a record of each subsequent transaction, involving such used motor vehicle, down to the last owner, owners, or transferee from whom the corporation, partnership, association or person selling, conveying, giving away or transferring derived title thereto; the residence or residences, so stated, shall be by city, village, township, county and state, together with the street and number or post office address, if any, of such former owner or owners, or, if there be no such addresses then by such description, designation, or information as may reasonably fix the place or places, residence or residences of such former owner or owners, and shall contain also the date and place where the ownership of said motor vehicle by the corporation, partnership, association or person selling, conveying, giving away or transferring the same began, and whether he acquired title thereto by purchase from last owner or owners, or in what manner such title was acquired, and a statement of any and all changes and alterations in the finish, design or appearance of the said used motor vehicle which had been made within the knowledge of the person making the statement."

Sec. 6310-8. "Each buyer, purchaser, transferee or person receiving or obtaining a 'used motor vehicle' shall obtain from the owner, vendor or person conveying or transferring such 'used motor vehicle,' at or before such sale, transfer, conveyance or delivery, the bill of sale in duplicate as provided for in Section 6310-7. * * *"

Sec. 6310-11. "It shall be unlawful for a corporation, * * * to sell, convey * * * a 'used motor vehicle' within this state without having in his possession and attached together one copy of all duly executed, verified and filed bills of sale, and of the sworn statement, if a sworn statement has before been filed for such 'used motor vehicle' or duly certified copies thereof, and without delivering the same to the corporation. * * *"

Sec. 6310-11a. "Each corporation, * * * to whom title shall in any manner within this state be passed to a 'used motor vehicle,' shall obtain from the corporation * * * one copy of all bills of sale and the sworn statement, if a sworn statement has prior thereto been filed, for such

'used motor vehicle' or certified copies thereof, and the bills of sale in duplicate required in Section 6310-7 of the General Code, * * *"

Sec. 6310-13. "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."

Sec. 6310-14. "Whoever violates any provision of this act (G. C. 6310-3 to 6310-14), except provisions of Section 6310-12 of the General Code, shall upon conviction be subject to a fine of not less than twenty-five dollars nor more than five thousand dollars; * * *"

It is evident upon consideration of the definition of a "used motor vehicle" as contained in Section 6310-3, supra, that when a junk dealer buys a car for junk, he is buying a "used motor vehicle." It is equally evident that the provisions of law with reference to the transfer of title to used motor vehicles apply to all used motor vehicles, those that are ready for the junk pile as well as those that are not. The requirements apply to all corporations, partnerships, associations or persons. There are no exceptions made for cars about to be junked or for junk dealers. We must therefore conclude that junk dealers must comply with the law as well as anyone else. Of course, if the car is bought by a junk dealer with the intention of junking it and he actually does so and does not thereafter sell or use substantial parts of the car for the building of another car, it might never be found out whether he had obtained the bill of sale as provided by the statutes or not, but that fact would not excuse him from obtaining the bill of sale as required by law.

It will be noted that the purchaser and seller are equally guilty of an infraction of the law if proper bills of sale are not made and delivered to the purchaser upon the transfer of title to a used motor vehicle. If a junk dealer purchases a car and does not get with it the proper bills of sale he not only is guilty of an infraction of the law, but he could not thereafter transfer it without securing the required bills of sale and sworn statement, if any, or certified copies thereof.

The purpose of the law requiring the execution of bills of sale when the title to motor cars is transferred is, as stated in the title to the first act with reference to the subject enacted in 1901, (109 O. L. 330) as follows:

"To prevent traffic in stolen cars, require registration and bill of sale to be given in event of sale or change in ownership of motor vehicles."

Bearing in mind the intention of the law, it is well to note the provision as to what a bill of sale should contain. In both Sections 6310-5 and 6310-7, General Code, relating to the transfer of "motor vehicles" and "used motor vehicles" it is stated that the bill of sale shall contain

"The name of the manufacturer or maker, the manufacturer's number, the engine or motor number, as well as any other numbers thereon, and the horse-power of such motor vehicle with a general description of the body thereto, the name and residence address of the purchaser, buyer, lessee, trans-

freee, or other person receiving such motor vehicle, together with a full account of any other number or marks on appliances attached thereto which may identify or tend to identify such motor vehicle."

In Section 6310-7, General Code, applying to transfers of "used motor vehicles" it is provided that the bill of sale shall contain in addition to what is set forth above

"A statement of any and all changes and alterations in the finish, design or appearance of the said used motor vehicle which had been made within the knowledge of the person making the statement."

It is apparent upon consideration of the purpose for which the law was passed and the identifying characteristics that the law states the bill of sale must contain that upon the transfer of cars made from parts of two or more cars the bill of sale should set out sufficient identifying marks or characteristics "which may tend to identify such motor vehicle" and also "a statement of any and all changes and alterations in the finish, design, or appearance of the said used motor vehicle which had been made within the knowledge of the person making the statement."

If a car is "built" from parts of two or more cars, the substantial parts of each car bearing identifying marks, such as the engine of a certain horse-power, bearing an engine number, that part of the chassis bearing the manufacturer's number, and the body of the car which is of a certain type or model, and admits of a "general description", must all necessarily have been a part of some car or cars, which formerly were complete units and must necessarily have been previously transferred as complete units and therefore must necessarily have had accompanying such transfers, if the law were observed, one or more bills of sale and possibly a sworn statement.

In my opinion, to carry out the intention of the law, "to prevent traffic in stolen cars", when a car is built from parts of two or more cars, if substantial parts of the old cars, such as must be described by number or otherwise in a bill of sale, are used to make the rebuilt car the bills of sale of all such old cars, substantial parts of which have gone into the building of the new car should be presented before the rebuilt car can be registered and a license issued therefor under Section 6294, General Code, and such bills of sale must accompany a new bill of sale when one is issued upon the transfer of the rebuilt car.

Coming now to a consideration of the specific questions you ask which will be considered in their order, I am of the opinion:

1. If a junk dealer buys a car even though he intends at the time to junk the car, he should get a bill of sale therefor the same as though he had bought it for resale. If he later replaces the motor from another junked car and sells the rebuilt car made up of the motor from one car and the chassis or substantial parts of the body of one or more other cars he should make a bill of sale therefor, setting forth the facts, and deliver the same to the purchaser together with the former bills of sale or certified copies of all the former bills of sale and sworn statements for each one of the car's substantial parts of which, such as the engine, chassis or body, had become a part of the rebuilt car.

2. A junk dealer when buying a used motor vehicle even though he intends it for junk, should procure a bill of sale therefor, the same as though he did not intend to junk the car. If he merely sells parts therefrom, and not a motor vehicle as defined in Sections 6290 and 6310-3, General Code, he would not be required to accompany such sale with a bill of sale.

3. If a junk dealer sells a car as a complete unit, that is, a car capable of being propelled or drawn by power other than muscular power, (Section 6290, General Code) he is required to execute a bill of sale therefor and deliver the same to the purchaser together with all former bills of sale which had theretofore been issued for the car as

a complete unit, or certified copies thereof, even though he has purchased such car as junk.

These questions were considered in Opinion No. 327 of this department rendered on April 14, 1927, addressed to the Commissioner of Motor Vehicles, a copy of which I am enclosing herewith.

Respectfully,

EDWARD C. TURNER,
Attorney General.

1190.

BILLS OF SALE FOR USED MOTOR VEHICLES, DISCUSSED.

SYLLABUS:

1. *Upon the transfer of ownership of a used motor vehicle the transferor is required to execute a bill of sale in duplicate as provided by Section 6310-7, General Code, and deliver the same to the transferee, together with all former bills of sale and a sworn statement of ownership if one has theretofore been filed for such motor vehicle, or duly certified copies thereof.*

2. *Persons acquiring title to a used motor vehicle are required to obtain from the person from whom title is being obtained at the time or before title to such used motor vehicle shall be obtained, a bill of sale therefor in duplicate, together with all prior bills of sale and the sworn statement, if a sworn statement has prior thereto been filed for such motor vehicle, or certified copies thereof, and thereafter present to the clerk of courts of the county in which passage of title is consummated, within three days immediately thereafter, such duplicate bills of sale together with all prior bills of sale and sworn statements, if any, or certified copies thereof, which he is required to obtain.*

3. *Section 6310-11a, General Code, requires persons who acquire title to used motor vehicles to present to the clerk of courts the bill of sale therefor within three days after acquiring such title. If such transferee fails to present such bills of sale for filing within three days after acquiring title to a used motor vehicle for which the bills of sale had been executed, he may do so later, although presentation of such bills of sale at a later date will not, as a matter of law, absolve the transferee from the penalties provided for failure to observe the law.*

4. *Clerks of courts are without authority to accept for filing a bill of sale of a used motor vehicle unless the same is properly executed and marked.*

COLUMBUS, OHIO, October 22, 1927.

HON. JOHN K. SAWYERS, JR., *Prosecuting Attorney, Woodsfield, Ohio.*

DEAR SIR:—This will acknowledge receipt of your inquiry which reads as follows:

“The Clerk of Court of Common Pleas of this county has called my attention to certain questions relative to the law dealing with bills of sale for used vehicles.

He has recently received a circular from the Inspector's office at Columbus, advising him at some length with regard to this matter.

However, it seems that said circular does not cover a state of facts which has been put to him recently by several dealers and car owners in this county.