

OPINION NO. 70-117**Syllabus:**

A law enforcement agency in possession of an abandoned motor vehicle of a value more than \$200.00 shall dispose of it by public auction, pursuant to the provisions of Sections 311.31 and 737.32, Revised Code.

To: Fred Rice, Registrar, Bureau of Motor Vehicles, Columbus, Ohio
By: Paul W. Brown, Attorney General, September 2, 1970

I have before me your request for my opinion regarding the following question:

"How should a law enforcement agency in possession of an abandoned motor vehicle of a value more than \$200.00 properly dispose of it?"

Section 311.31, Revised Code, provides the procedure for disposal of an unclaimed motor vehicle by a county law enforcement agency. Such section provides:

"Motor vehicles, unclaimed for the period of ninety days, shall be sold by the sheriff of the county, or licensed auctioneer at public auction, after giving due notice thereof by advertisement, published once a week for three successive weeks in a newspaper of general circulation in the county. Provided, that any motor vehicle which has a value of less than two

hundred dollars, except junk motor vehicles as defined and provided for in section 311.301 311.30.17 of the Revised Code, unclaimed for the period of thirty days, shall be sold by the sheriff of the county, or licensed auctioneer at public auction, after giving due notice thereof by advertisement, published once a week for three successive weeks in a newspaper of general circulation in the county, and after complying with section 311.32 of the Revised Code. The proceeds from such sale shall be credited to the general fund of the county." (Emphasis ours)

Section 737.32, Revised Code, provides a similar procedure for disposal of an unclaimed motor vehicle by a municipal law enforcement agency. Such section provides:

"Property, unclaimed for the period of ninety days, shall be sold by the chief of police of the municipal corporation, marshal of the village, or licensed auctioneer at public auction, after giving due notice thereof by advertisement, published once a week for three successive weeks in a newspaper of general circulation in the county. Provided, that any motor vehicle which has a value of less than two hundred dollars, except junk motor vehicles as defined and provided for in section 737.312 737.31.27 of the Revised Code, unclaimed for the period of thirty days, shall be sold by the chief of police of the municipal corporation, marshal of the village, or licensed auctioneer at public auction, after giving due notice thereof by advertisement, published once a week for three successive weeks in a newspaper of general circulation in the county, and after complying with section 737.331 737.33.17 of the Revised Code. The proceeds shall be paid to the treasurer of the municipal corporation and be credited to the general fund." (Emphasis ours)

The underlined portions of these parallel statutes provide the procedure for disposal of an abandoned motor vehicle with a value in excess of \$200.00.

However, before a law enforcement agency can transfer title to a motor vehicle by public auction, the agency must first procure title to such vehicle in the agency's name. Section 4505.03, Revised Code, provides:

"No person, except as provided in section 4505.05 of the Revised Code, shall sell or otherwise dispose of a motor vehicle without delivering to the purchaser or transferee thereof a certificate of title with such assignment thereon as is necessary to show title in the purchaser.
* * *"

Therefore, the law enforcement agency must procure a court authorizing the transfer of title to the agency, such order being based on Section 311.31, supra, or Section 737.32, supra. Section 4505.10, Revised Code, provides the procedure:

"In the event of the transfer of ownership of a motor vehicle by operation of law * * * the clerk of the court of common pleas of the county in which the last certificate of title to said motor vehicle was issued, upon the surrender of the prior certificate of title or the manufacturer's or importer's certificate, or, when that is not possible, upon presentation of satisfactory proof to the clerk of ownership and rights of possession to such motor vehicle, and upon payment of the fee prescribed in section 4509.09 of the Revised Code, and presentation of an application for certificate of title, may issue to the applicant a certificate of title to such motor vehicle. Only an affidavit by the person or agent of the person to whom possession and ownership, together with a copy of the journal entry, court order, or instrument upon which such claim of possession and ownership is founded, is satisfactory proof of ownership and right of possession. * * *"

The law enforcement agency would then, upon presenting a court order authorizing the transfer of title to the agency, and the above-mentioned affidavit to the clerk of the court of common pleas of the county in which the last certificate of title for the motor vehicle was issued, be entitled to receive a certificate of title for such vehicle.

The law enforcement agency is then able to proceed with the disposal by public auction as authorized by Sections 311.31 and 737.32, supra.

It is therefore my opinion, and you are hereby advised, that a law enforcement agency in possession of an abandoned motor vehicle of a value more than \$200.00 shall dispose of it by public auction, pursuant to the provisions of Sections 311.31 and 737.32, Revised Code.