

MOTOR VEHICLES: Motorcycle dealer's license plates may not
DEALERS: be used on automobiles offered for sale by
such dealers.

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Col. Hugh H. Waggoner, Superintendent
Missouri State Highway Patrol
Jefferson City, Missouri

Dear Sir:

This is in reply to your letter of recent date wherein you request an official opinion on the following statement and question:

"A motorcycle dealer, whose business is primarily the selling and exchange of new and used motorcycles, on occasion takes in an automobile and offers it for sale.

"The question has been raised by the dealer as to whether or not he has a right to use his motorcycle dealers license plates on cars which he offers for sale, in the business of his dealership."

The statutes providing for licensing of motor vehicle dealers contain the following provisions, Laws of Missouri, 1945, page 1195. Section 8367 defines the terms "dealer," "motorcycle" and "motor vehicles" as follows:

"'Dealer.' Any person, firm, corporation, association, agent or sub-agent engaged in the sale or exchange of new, used or reconstructed motor vehicles or trailers."

"'Motorcycle.' A motor vehicle operated on two wheels."

"'Motor vehicle.' Any self-propelled vehicle not operated exclusively upon tracks, except farm tractors."

Section 8371 of the act, Laws of Missouri, 1945, page 1199, requires dealers to make application for a dealer's license and to pay a fee therefor. This section provides

only one rate for registration as a dealer. The registration fee is \$21.00, which includes two sets of number plates, and for an additional \$10.50, a duplicate set of number plates may be obtained by the dealer.

On the question of whether or not a dealer who has motorcycle dealer's license plates may use these plates on automobiles which he may sell, we think the question would be determined by whether or not such a dealer is violating any of the motor vehicle laws. Subsection (b) of Section 8377, Laws of Missouri, 1947, page 385, provides as follows:

"(b) The plates issued to manufacturers and dealers shall bear the letter 'D' preceding the number and the Director of Revenue is authorized to place upon such number plates other letters or marks to distinguish commercial motor vehicles and trailers and other types of motor vehicles."

These provisions would authorize the Director of Revenue to have placed on plates letters or marks to distinguish them from being a dealer's license for automobiles or for motorcycles, etc. Subsection (c) of this same section provides as follows:

"(c) Before being operated on any highway of this state every motor vehicle or trailer shall have displayed the permanent license plates or temporary permit issued by the Director of Revenue entirely unobscured, unobstructed, all parts thereof plainly visible and kept reasonably clean, and so fastened as not to swing. On all motor vehicles one plate shall be displayed on the front and the other on the rear of such motor vehicle, not less than eight nor more than forty-eight inches above the ground, except that on trailers, motorcycles, motortricycles and motor scooters one plate shall be so displayed on the rear thereof."

This section, it will be noted, requires a license plate to be displayed on the front and rear of motor vehicles, except trailers, motorcycles, motortricycles and motor scooters, which shall be required to display only one plate on the rear thereof. Since a dealer in motorcycles would have only one license plate under this section, then he would not be complying with the law if he attempted to sell automobiles under the

dealer's license issued to him to sell motorcycles.

If such a dealer is not complying with the law, then we think he would be subject to the penalties provided for in subsection (d) of Section 8404, R. S. Mo. 1939, which reads as follows:

"(d) Any person who violates any of the other provisions of this article shall, upon conviction thereof, be punished by a fine of not less than five dollars (\$5.00) or more than five hundred dollars (\$500.00) or by imprisonment in the county jail for a term not exceeding two year, or by both such fine and imprisonment."

The sections of the statutes hereinbefore referred to and reenacted in Laws of Missouri, 1945 and 1947, were originally in Article 1, Chapter 45, which is the same article referred to in subsection (d) of Section 8404, hereinabove set out. Therefore, since the motorcycle dealer has only one license plate to be displayed on the rear of motorcycles sold by him, then he could not comply with subsection (b) of Section 8377, Laws of Missouri, 1947, supra, and as a result thereof, he would be subject to the penalties imposed by said subsection (d) of Section 8404, R. S. Mo. 1939.

CONCLUSION

From the foregoing, it is the opinion of this department that a motor vehicle dealer, who has motorcycle license plates issued to him by the Director of Revenue, may not use such plates on automobiles which he offers for sale in the business of a motor vehicle dealer.

Respectfully submitted,

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