

2288.

APPROVAL, BONDS OF CITY OF MANSFIELD, OHIO, IN AMOUNT OF \$36,800 FOR OPERATING EXPENSES OF CITY.

COLUMBUS, OHIO, August 3, 1921.

Industrial Commission of Ohio, Columbus, Ohio.

2289.

APPROVAL, FINAL RESOLUTIONS FOR ROAD IMPROVEMENTS, TRUMBULL, BUTLER, CRAWFORD AND LUCAS COUNTIES, OHIO.

COLUMBUS, OHIO, August 4, 1921.

Department of Highways and Public Works, Division of Highways, Columbus, Ohio.

2290.

AUTOMOBILES—TRAILERS SHALL BEAR TWO NUMBER PLATES—SEE SECTION 6298 G. C.—PURPOSES FOR WHICH MANUFACTURER'S OR DEALER'S LICENSE USED—SALE, LEASE OR OTHER LIKE DISPOSITION.

Under section 6298 G. C. an auto trailer shall bear two number plates.

A manufacturer's or dealer's license, as provided in section 6301 G. C., shall be used only when the use of the motor vehicle is for the purpose of sale, lease or other like disposition.

COLUMBUS, OHIO, August 4, 1921.

HON. HARVEY C. SMITH, *Secretary of State, Columbus, Ohio.*

DEAR SIR:—Your letter of recent date received in which you request the opinion of this department as follows:

"1. Trailer Identification.

Section 6298—The Ohio Code—attached.

Section 6298 does not define trailer nor does it mention the form of identification. There is not in the entire law mention made as to the number of plates necessary to identify a trailer. The automobile department has followed the same form as used in identifying motorcycles and have issued but one plate for each trailer. Can we continue to issue but one or must there be two plates—one for the front and one for the rear of each trailer?

2. Restriction of the use of manufacturers and dealers vehicle license plates and certified copies thereof.

Section 6301. Section attached.

Please rule on the meaning of the following:

"For any purpose other than sale, lease or other like disposition."

Can or cannot manufacturer or dealers' licenses be used by individuals, members of firms or corporations, members of families, salesmen and others in the employ of individuals, firms or corporations and can or cannot they be used on service cars for hauling in damaged cars and conveying material from depots and warehouses to the company's place of business?

Can or cannot they be used on 'used vehicles' for pleasure driving and for taxi hire and on trucks carrying material from depots and warehouses to manufacturing plant of licensee, and buses carrying employees and sightseers to and from the plant of licensee and elsewhere about the village or city in which the company is located?"

Section 6290 G. C. provides in part as follows:

"(1.) 'Motor vehicle' means any vehicle propelled or drawn by power other than muscular power and not operated exclusively upon rails or tracks, except road rollers, traction engines, tractors, trailers designed to be drawn by animal power and used principally for agricultural purposes, public ambulances, and vehicles belonging to any police department, municipal fire department, volunteer fire company or salvage company, organized under the laws of Ohio, or used by such department or company in the discharge of its functions.

* * *."

Section 6292 G. C. is in part as follows: --

"For each trailer, the same tax based on gross weight of vehicle and load, herein provided for commercial cars.

* * *."

Section 6298 G. C. provides as follows:

"Upon the filing of such application and the payment of the tax imposed by this chapter, the secretary of state shall assign to such motor vehicle a distinctive number, and, without expense to the applicant, issue and deliver to the owner in such manner as the secretary of state may select a certificate of registration, in such form as the secretary of state shall prescribe, and two number plates, duplicates of each other, at the post or express office within the state of Ohio named in said application."

It would clearly appear by a reading of the above sections that an auto trailer is considered a motor vehicle so far as licensing is concerned. There seems to be no question but that a trailer must bear a license number and since the statute, section 6298 G. C., expressly says that there shall be two number plates and since an auto trailer is included in the definition of a motor vehicle, section 6290 G. C., it is of necessity concluded that it is necessary to deliver the number of plates in duplicate for an auto trailer.

Therefore it is the opinion of this department that an auto trailer must have two number plates.

In your second inquiry the section of the General Code under consideration is 6301, which reads as follows:

"A manufacturer of or dealer in motor vehicles, shall make application, in like manner, as hereinbefore provided, for each gasoline, steam, electric or other make of motor vehicles, so manufactured or

dealt in, to be determined by the motive power of such vehicles; excepting that for the purpose of such application the district of registration shall be stated for each place in this state at which the business of manufacturing or dealing in motor vehicles or any branch thereof is carried on, and the application shall show the make, or makes, so manufactured or dealt in at each such place. Upon the filing of such application, and the payment of the tax imposed by this chapter the secretary of state shall assign to each make of motor vehicle therein described a distinctive number which must be carried and displayed by each motor vehicle of such make in like manner as provided in this chapter while it is operated on the public highway until it is sold or let for hire. Such manufacturer or dealer, so registering a make of motor vehicle, may procure certified copies of such registration certificate upon the payment of a fee of two dollars. With each of such certified copies the secretary of state shall furnish two placards with the same numbering provided in the original registration certificates, and may add thereto such special designation as may be necessary to distinguish one set thereof from another. Nothing in this section nor in section six thousand two hundred and ninety-two of the General Code shall be construed as to exempt any manufacturer or dealer from registration or taxation in respect of any other motor vehicle of which he is the owner for any purpose other than sale, lease or other like disposition.'

Paragraph 6 of section 6290 G. C. provides as follows:

"(6.) 'Manufacturer' and 'dealer' include all persons, firms and corporations engaged in the business of manufacturing, selling or leasing motor vehicles."

This clearly indicates that manufacturers' and dealers' licenses may be used by individuals, members of firms or corporations, members of families, salesmen or others in the employ of individuals, firms or corporations, when the automobile is used for the purpose of sale, lease or other like disposition. The object of the operation must be the sale, lease or other like disposition of the vehicle. However, this will not be true where the motor vehicle is used a part of the time for business other than sale, lease or other like disposition. Such motor vehicle has a dual character. When being used for sale, lease or other like disposition, the license provided in section 6301 applies, but only in that case, and when the motor vehicle is otherwise used the owner thereof is subject to the tax as provided in section 6292 G. C. If a manufacturer's or dealer's license is used for purposes other than sale, lease or other like disposition, the driver is operating as though he had no license and is subject to fine.

It may be especially observed that there are no circumstances under which a service car, truck, taxi or bus may be operated with a dealer's license unless the operation or use is for the sole purpose of sale, lease or other like disposition, and when said last mentioned vehicles are used in the ordinary way by the owner thereof, they must bear the license as provided in section 6292 G. C.

Your attention is directed to Opinions of the Attorney-General for 1920, Vol. I, p. 121, wherein a similar question was discussed and which by analogy is believed to be applicable to the question at hand.

You are therefore advised that no use can be made of any motor car carry-

ing a manufacturer's or dealer's license except when the car is being used for sale, lease or other like disposition.

Respectfully,
JOHN G. PRICE,
Attorney-General.

2291.

SCHOOLS—WHERE ELECTORS VOTE TO ISSUE BONDS AS PROVIDED BY SECTION 7625 G. C.—NOT NECESSARY TO SUBMIT QUESTION TO VOTERS AGAIN TO TAKE ADVANTAGE OF NEW LEVY PROVIDED FOR IN SENATE BILL NO. 160.

Where the electors of a school district have voted to issue bonds as provided by section 7625 et seq. of the General Code, in order to make the levy to pay for such bonds, as authorized in Senate Bill No. 160 (section 5649-3a), it is not necessary to submit the question to the voters again in order to take advantage of the new levy provided for in senate bill No. 160.

COLUMBUS, OHIO, August 4, 1921.

HON. EARL C. KRUEGER, *Prosecuting Attorney, Sandusky, Ohio.*

DEAR SIR:—Acknowledgment is made of the receipt of your recent request for an opinion of this department upon the following statement of fact:

"I have been requested by several of the local boards of education here as well as from some of the attorneys representing them to inquire from you whether or not it is your opinion that it is necessary to again submit to the voters of their respective districts the question of issuing bonds as provided by section 7625 of the General Code et seq. in order to make the levy to pay for such bonds as authorized by Senate Bill No. 160 which amends section 5649-3a in respect to taking such levy out of the three mill limitation. We have three school districts in this county wherein a vote was had to issue bonds for school purposes under section 7625 and in which case the three mill tax levy limitation as provided in section 5649-3a made it impossible to issue all the bonds voted for and apparently the question now is whether it will be necessary to re-submit the question to the voters in order to take advantage of the new levy provided in Senate Bill No. 160 as above referred to."

In reply to your question you are advised that no re-submission of the question to issue bonds for school purposes under section 7625 in the three school districts in question is necessary in order to take advantage of the new levy provided in Senate Bill 160. The authorization secured by the boards of education by vote of the people would be valid in a case such as you describe regardless of the time at which such vote was had, and the boards of education in the school districts in question are authorized to proceed to issue all the bonds voted for without resubmitting the question again to the electors.

Respectfully,
JOHN G. PRICE,
Attorney-General.