



**THE ATTORNEY GENERAL
OF TEXAS**

AUSTIN 11, TEXAS
June 23, 1950

PRICE DANIEL
ATTORNEY GENERAL

Hon. Homer P. Garrison, Jr., Director
Texas Department of Public Safety
Austin, Texas

Opinion No. V-1073

Re: The legality of sales by a
used car dealer of motor
vehicles not registered in
Texas for the current year;
and related questions.

Dear Col. Garrison:

Your request for an opinion presents the following
questions:

Does Article 1434, Penal Code of Texas, as
amended and enacted by the 50th Texas Legislature
permit the transfer or sale by a used car dealer
of a used motor vehicle not registered for the
current year?

Can a temporary cardboard dealer's license
plate be used on a second-hand car by a non-
dealer purchaser when such used car has not been
registered for the current year?

Article 1434 of Vernon's Penal Code, as amended, reads
as follows:

"No person, acting for himself or another,
shall sell, trade or otherwise transfer any used
or secondhand vehicle required to be registered
under the laws of this State unless and until
said vehicle at the time of delivery has been
duly registered in this State for the current
year under the provisions of said law; provided,
however, that a dealer may demonstrate such
motor vehicle for the purpose of sale, trade
or transfer under a dealer's license plate issued
such dealer for demonstration purposes. Whoever,
acting for himself or another, sells, trades, or
otherwise transfers any such vehicle shall deliver
to the transferee at the time of delivery of the
vehicle the license receipt issued by the depart-
ment for registration thereof for the current year

and a properly assigned Certificate of Title or other evidence of title as required under the provisions of Article 1436-1 of the Penal Code of the State of Texas. Whoever, acting for himself or another, sells, trades or otherwise transfers any secondhand or used vehicle without delivering to the transferee at the time of delivery of the vehicle the license receipt issued therefor for the current year and a properly assigned Certificate of Title as herein required shall be guilty of a misdemeanor and upon conviction shall be fined in any sum not exceeding Two Hundred Dollars (\$200)."

The language of Article 1434, V.P.C., above, provides that "no person shall sell any used or second-hand vehicle required to be registered unless said vehicle has been duly registered for the current year provided, however, a dealer may demonstrate such motor vehicle for the purpose of sale, trade or transfer under a dealer's license plate issued such dealer for demonstration purposes." The quoted proviso permits used car dealers licensed under Art. 6686, V.C.S., to transfer, trade or sell a used motor vehicle not registered for the current year.

The Supreme Court in Texas Automotive Dealers Ass'n., Inc., v. Harris County Tax Assessor-Collector, et al., 229 S.W. 2d 787, in considering the applicability of Article 1434, V.C.S., to automobile dealers said:

"It is claimed that dealers are not expressly named as being exempt from the provisions of this article, and therefore they should file the transfer within the ten-day period. First, we notice that the Act expressly refers to Art. 1434, P.C., Art. 1435, P.C., expressly exempts dealers who have a dealer's license plate from the requirements that they must register a motor vehicle and have the current year's license receipt before he can sell the car...."

"....."

"Since the Legislature by the language of Art. 1434 and by references in Art. 1435 excepts dealers who have dealers' license from the provisions of the law requiring them to license their used or secondhand cars or secure Certificate of Title thereto, we hold they are excepted from the requirement of filing the license registration receipts and Certificate of Title applications for transfer within the ten-day

period provided in Art. 1435 and therefore are not liable for penalties for failure so to do."

Your first question is therefore answered in the affirmative.

The answer to your second question lies in Article 6686, V.C.S., which reads, in part, as follows:

"Each dealer holding a dealer's license may issue temporary cardboard numbers using such dealers' number thereon which may be used by any person, dealer, or manufacturer purchasing a motor vehicle, trailer, or semitrailer. Such person purchasing a motor vehicle, trailer, or semi-trailer from a manufacturer or dealer may use such cardboard number for a reasonable length of time but in no case to exceed ten (10) days after such purchase is made. Any dealer or manufacturer may use such cardboard license plate for the purpose of operating or conveying a motor vehicle, trailer, or semi-trailer, from his place of business in one part of the State to his place of business in another part of the State, and for the purpose of operating or conveying a motor vehicle, trailer, or semi-trailer from the point where it is unloaded to his place of business, and may also use such cardboard number in transporting a motor vehicle, trailer, or semi-trailer from the State line to his place of business. The form of such cardboard number shall be prescribed by the Department of Public Safety."

Article 6686, Sec. (b), permits any person to use temporary cardboard numbers issued by the dealer holding the distinguishing dealer's license plate number. However, the purchaser may use the number for only a reasonable time, not to exceed ten (10) days after the date of the purchase, and thereafter the vehicle must be registered in accordance with the registration statutes.

In Texas Automotive Dealers Ass'n., Inc. v. Harris County Tax Assessor-Collector, et al., supra, the court said:

"Art. 6686, Revised Civil Statutes, 1925, as amended, provides who may secure dealer's license, and provides 'Any *** or dealer in motor vehicles in this state may, instead of registering each vehicle he may wish to show or demonstrate upon

the public highway,' may apply for and secure a dealer's license plate to be attached to such motor vehicle. This specifically exempts the dealer from procuring a current year's license registration receipt before he may sell the vehicle. Also paragraph (b) of such article provides that the dealer may issue temporary cardboard numbers, using such dealer's number, to any person purchasing a motor vehicle from the dealer, and such purchaser may use such dealer's cardboard number for ten days..." (Emphasis supplied)

We are therefore of the opinion that a non-dealer purchaser could use temporary cardboard numbers issued by the dealer for a period not to exceed ten days.

SUMMARY

A licensed used car dealer is exempted from the provisions of Article 1434, V.P.C., as amended, and therefore can sell motor vehicles not registered for the current year in Texas. A non-dealer purchaser of a used car can use the temporary cardboard numbers issued by the dealer for a period not to exceed ten (10) days. Article 1434, V.P.C.; Art. 6686, Sec. (b), V.C.S.; Texas Automotive Dealers Ass'n., Inc. v. Harris County Tax Assessor-Collector, et al., (Sup. Ct.) 229 S.W. 2d 787.

Yours very truly,

PRICE DANIEL
Attorney General

By s/James E. Ferguson
James E. Ferguson
Assistant

JEF/rt:db:wc

APPROVED:

Ned McDaniel
State Affairs Division

Charles D. Mathews
Executive Assistant