

Chapter 481

Motor Vehicle Registration and Licensing; Dealers, Wreckers and Transporters; Motor Vehicles Division

Chapter 481

NOTES OF DECISIONS

Self-propulsion is not an element of the definition of "vehicle". Roy L. Houck & Sons v. State Tax Comm., (1963) 1 OTR 286.

FURTHER CITATIONS: Wittenberg v. Mutton, (1955) 203 Or 438, 280 P2d 359; Roy L. Houck & Sons v. State Tax Comm., (1961) 229 Or 21, 366 P2d 166; Oldham v. State Tax Comm., (1964) 2 OTR 40; Randolph v. Delaney Ford, Inc., (1966) 245 Or 226, 420 P2d 642.

ATTY. GEN. OPINIONS: Disposition of collected fines, 1948-50, p 357; authority of Secretary of State to establish branch offices for administration of this chapter, 1950-52, p 27; payment of State Treasurer of expenses of branch offices established by Secretary of State, 1950-52, p 33; compelling courtroom appearance of persons violating this chapter, 1954-56, p 10; constitutionality of additional penalties for moving traffic violations, 1954-56, p 94; disposition of forfeited bail, 1954-56, p 142; licensing requirements for tank trucks used for fire protection, 1954-56, p 159; duties of Department of Motor Vehicles as to mortgages on migratory chattels, 1956-58, p 7; registration of "Tournapull," 1956-58, p 10; jurisdiction of Portland municipal courts over violations, 1956-58, p 28; arrest of violator as prerequisite to issuing of citation to appear in court, 1956-58, p 62; regulating use and operation of vehicles on highways, 1958-60, p 27; purpose as proportionate distribution of highway costs among users, 1958-60, p 64; as primarily a licensing and registration measure, 1966-68, p 548; licensing of house trailer after permanently fixed to land, (1968) Vol 34, p 104; vehicles subject to registration, (1969) Vol 34, p 911.

481.005

ATTY. GEN. OPINIONS: Removable containers used for carrying load on oil truck as constituting part of body, 1934-36, p 596; hoist on dump truck as part of body of truck, 1934-36, p 596; woodsaw equipment and wrecking crane equipment as part of body, 1934-36, p 596; gas shovel mounted on motor truck as part of "body" of the truck, 1946-48, p 56.

481.015

ATTY. GEN. OPINIONS: Manufacturer who sells automobiles direct to retail dealers as a "dealer," 1930-32, p 417; streets in unincorporated towns which have not been accepted by the county as "county highways," 1944-46, p 15; defining "department," 1954-56, p 159.

481.020

NOTES OF DECISIONS

Intersection of highway with an unused dedicated street

was not a street "intersection" within the meaning of this section. Santoro v. Brooks, (1927) 121 Or 424, 254 P 1019.

ATTY. GEN. OPINIONS: Meaning of terms "hardsurfaced" and "paved" highways, 1932-34, p 540; road over which vehicle owner has permit from forestry department to use heavy logging equipment and has to repair same as a "highway," 1940-42, p 86.

481.021

ATTY. GEN. OPINIONS: Taxation of house trailers fixed to land after licensing, (1968) Vol 34, p 104.

481.025

CASE CITATIONS: Larison-Frees Chevrolet Co. v. Payne, (1939) 163 Or 276, 96 P2d 1067.

ATTY. GEN. OPINIONS: Purchaser under conditional sales contract as "owner," 1952-54, p 169.

481.030

CASE CITATIONS: Duffy v. Ore. Auto. Ins. Co., (1933) 142 Or 698, 21 P2d 211.

ATTY. GEN. OPINIONS: Person operating motor bus in carrying passengers or their personal effects or both, as subject to payment of license fees, 1934-36, p 308; licensing "hyster" loading devices as motor vehicles, 1946-48, p 368; exemption of station wagon used to transport students, 1952-54, p 173.

481.035

CASE CITATIONS: Peterson v. State Farm Mut. Auto. Ins. Co., (1964) 238 Or 106, 393 P2d 651.

ATTY. GEN. OPINIONS: "Towermobile" as a motor truck, 1948-50, p 381; construing motor trucks definition, 1950-52, p 116.

LAW REVIEW CITATIONS: 2 WLJ 62.

481.040

CASE CITATIONS: Roy L. Houck & Sons v. State Tax Comm., (1961) 229 Or 21, 366 P2d 166; Volmer v. Volmer, (1962) 231 Or 57, 371 P2d 70; Roy L. Houck & Sons v. State Tax Comm., (1963) 1 OTR 286; Gowin v. Heider, (1964) 237 Or 266, 386 P2d 1, 391 P2d 630.

ATTY. GEN. OPINIONS: Mechanical device propelled by washing machine motor as a motor vehicle, 1930-32, p 356; when a motor vehicle used on private property may travel from one private tract of land to another over public highway without being subject to the motor vehicle registration law, 1936-38, p 405; lessee as owner for purpose of registra-

tion, 1936-38, p 683; municipal corporation as owner of vehicle used and operated for municipal purposes, 1940-42, p 355; purchaser under conditional sales contract as "owner", 1952-54, p 169; construing motor vehicle definition, 1952-54, p 213; associations of forest landowners as "owners" of vehicles used by association, 1956-58, p 80; specific exclusion of road rollers, from definition of motor vehicle, 1958-60, p 64; construing exemptions, 1962-64, p 158; application of "owner" definition to fuel tax law, (1969) Vol 34, p 911; use of vehicle registration fee for transit, (1970) Vol 35, p 198.

LAW REVIEW CITATIONS: 44 OLR 317.

481.050

CASE CITATIONS: *Calkins v. Lane County*, (1922) 105 Or 127, 208 P 744.

481.055

ATTY. GEN. OPINIONS: Manufacturers' markings on tires taken by law enforcement officer as the measurement and reading referred to in this section, 1936-38, p 360.

481.060

ATTY. GEN. OPINIONS: Construing definition of trailers, 1952-54, p 213.

481.070

NOTES OF DECISIONS

Motor vehicle ambulances in general are not excluded by the statutory definition of "motor vehicle" but only police ambulances. *West v. Jaloff*, (1925) 113 Or 184, 232 P 642, 36 ALR 1391.

Bicycles are excluded from the statutory definition of the term "vehicle." *Haynes v. Sprague*, (1931) 137 Or 23, 295 P 964.

Self-propulsion is not an element in the definition of "vehicle." *Roy L. Houck & Sons v. State Tax Comm.*, (1963) 1 OTR 286.

FURTHER CITATIONS: *Copenhaver v. Tripp*, (1950) 187 Or 662, 213 P2d 450; *Roy L. Houck & Sons v. State Tax Comm.*, (1961) 229 Or 21, 366 P2d 166.

ATTY. GEN. OPINIONS: "Used vehicle" distinguished from "new vehicle," 1956-58, p 185.

481.075

NOTES OF DECISIONS

The declaration of subsection (1) that the sections listed are an exercise of police power, while not absolutely controlling, is an important factor in determining the character of those sections. *Briedwell v. Henderson*, (1921) 99 Or 506, 195 P 575; *Camas Stage Co. v. Kozer*, (1922) 104 Or 600, 209 P 95, 25 ALR 27.

Vehicles not within the exceptions here provided are necessarily without it. *State v. Preston*, (1922) 103 Or 631, 206 P 304, 23 ALR 414; *Portland v. Kozer*, (1923) 108 Or 375, 217 P 833.

The right of a city to regulate motor vehicles by ordinance is not precluded by this section. *Covey Garage v. Portland*, (1937) 157 Or 117, 70 P2d 566.

This chapter imposes license fees as a privilege tax as a prerequisite for the privilege of using the public highways. *Roy L. Houck & Sons v. State Tax Comm.*, (1961) 229 Or 21, 366 P2d 166.

FURTHER CITATIONS: *White Bros. Constr. Co. v. Oregon State Police*, (1967) 246 Or 106, 424 P2d 221.

ATTY. GEN. OPINIONS: Haybaler as an implement of husbandry, 1926-28, p 322; equipment for use in baling hay as constituting implements of husbandry, 1932-34, p 613; whether truck equipped with fire-fighting equipment is a fire wagon as question of fact, 1940-42, p 86; officers enforcing traffic laws of state notwithstanding local laws to same effect, 1940-42, p 144; licensing "hyster" loading devices as motor vehicles, 1946-48, p 368; exemption of a farm wagon, 1952-54, pp 207, 224; tank truck used for fire protection as a fire wagon or fire engine, 1954-56, p 159; licensing as use of police power to grant highway use privilege to qualified owners and operators, 1956-58, p 10; use of highways by road graders and road rollers, 1958-60, p 64; "implements of husbandry" defined, 1960-62, p 68.

481.090

ATTY. GEN. OPINIONS: Authority to lease buildings for branch offices, 1950-52, pp 27, 33, 52.

481.095

CASE CITATIONS: *In re Vilas' Estate*, (1941) 166 Or 115, 110 P2d 940.

ATTY. GEN. OPINIONS: Service by publication on person who was a resident at the time of the accident but is a nonresident when service is attempted, 1948-50, p 51; licensing as use of police power to grant highway use privilege to qualified owners and operators, 1956-58, p 10.

LAW REVIEW CITATIONS: 1 WLJ 229.

481.105

NOTES OF DECISIONS

Motor vehicles must be registered before being operated or driven upon the highways of the state. *Camas Stage Co. v. Kozer*, (1922) 104 Or 600, 209 P 95, 25 ALR 27.

The license fee exacted for using motor vehicles on highways is a privilege tax. *Id.*

Plaintiff's vehicles were within the meaning of this section. *White Bros. Constr. Co. v. Oregon State Police*, (1967) 246 Or 106, 424 P2d 221.

FURTHER CITATIONS: *Larison-Frees Chevrolet Co. v. Payne*, (1939) 163 Or 276, 96 P2d 1067; *Dicillo v. Osborn*, (1955) 204 Or 171, 282 P2d 611; *Roy L. Houck & Sons v. State Tax Comm.*, (1961) 229 Or 21, 366 P2d 166; *Roy L. Houck & Sons v. State Tax Comm.*, (1963) 1 OTR 286; *Gowin v. Heider*, (1964) 237 Or 266, 386 P2d 1, 391 P2d 630.

ATTY. GEN. OPINIONS: License of motor patrol road grader, 1930-32, p 787; authority of Secretary of State to collect and receive motor vehicle license fees on instalment plan, 1930-32, p 720; registration of motor vehicle operated by State Relief Committee, 1934-36, p 14; meaning of term "operate" as used in this section, 1936-38, p 405; registration of truck leased by cooperative creamery for term of more than 10 days, 1938-40, p 68; registering title to a leased motor vehicle in name of both lessor and lessee, 1946-48, p 322; licensing requirements for tank trucks used for fire protection, 1954-56, p 159; licensing of Tournapull, 1956-58, p 10; properly registered motor vehicles as exempt from ad valorem property tax, 1956-58, p 64; forest landowners as owners of vehicles used by association, 1956-58, p 80; personal liability of agent who collects fees, 1956-58, p 98; registration of road graders and road rollers, 1958-60, p 64; determining situs of house trailer, 1960-62, p 248; duty when

mobile homeowner is different on assessment roll, (1970) Vol 35, p 176.

481.110

NOTES OF DECISIONS

This statute contemplates that the owner shall secure the vehicle's registration in his own name, and that registration and number plates shall only be granted to one who either already has or is entitled to a certificate of title. Larison-Frees Chevrolet Co. v. Payne, (1939) 163 Or 276, 96 P2d 1067.

The phrase "or otherwise entitled to have the same registered in his name" does not sanction methods out of harmony with the statutory procedure. Id.

The administrative interpretation by the Secretary of State evidenced by the form of application for license plates is pertinent only when there is ambiguity in the statute. Id.

FURTHER CITATIONS: Commercial Fin. Corp. v. Burke, (1944) 173 Or 341, 145 P2d 473, 151 ALR 684; Dicillo v. Osborn, (1955) 204 Or 171, 282 P2d 611; Gowin v. Heider, (1964) 237 Or 266, 386 P2d 1, 391 P2d 630.

ATTY. GEN. OPINIONS: Certificate of title and fee requisite to motor vehicles owned by state and municipal corporations, 1926-28, p 468; authority of a bona fide resident of an adjoining sister state to operate an automobile registered in such state even though gainfully employed and temporarily employed in Oregon, 1942-44, p 389; determining if applicant has right to certificate of title, 1952-54, p 169; determining situs of house trailer, 1960-62, p 248.

LAW REVIEW CITATIONS: 42 OLR 11.

481.115

NOTES OF DECISIONS

This section recognizes that ownership of a motor vehicle is not dependent upon the certificate of title or the registration and license of the vehicle. Fagg v. Mass. Bonding Ins. Co., (1933) 142 Or 358, 19 P2d 413.

Indorsements or assignments on the backs of the certificates are not made prima facie evidence of the facts therein stated. Hayes v. Ogle, (1933) 143 Or 1, 21 P2d 223.

This statute contemplates that the owner shall secure the vehicle's registration in his own name, and that registration and number plates shall only be granted to one who either already has or is entitled to a certificate of title. Larison-Frees Chevrolet Co. v. Payne, (1939) 163 Or 276, 96 P2d 1067.

Certificate of title is only prima facie evidence of ownership. Mogul Trans. Co. v. Larison, (1947) 181 Or 252, 181 P2d 139.

The presumption created by this section relates to the repository of title and not beneficial ownership. Dicillo v. Osborn, (1955) 204 Or 171, 282 P2d 611.

Effect of the certificate of title as prima facie evidence of ownership may be overcome. Wiebe v. Seely, (1959) 215 Or 331, 335 P2d 379.

A purchaser of a vehicle who receives a properly indorsed certificate of title in circumstances which would not put an ordinary person on inquiry is protected when the owner is estopped to assert title because of misplaced trust in a wrongdoer. Valley Motor Co. v. Ralls, (1960) 224 Or 290, 355 P2d 1100.

FURTHER CITATIONS: Ruddy v. Ore. Auto. Cred. Corp., (1946) 179 Or 688, 174 P2d 603; Bolton v. Schimming, (1961) 226 Or 330, 360 P2d 540.

LAW REVIEW CITATIONS: 1 WLJ 579.

481.117

NOTES OF DECISIONS

This section recognizes that ownership of a motor vehicle is not dependent upon the certificate of title or the registration and license of the vehicle. Fagg v. Mass. Bonding Ins. Co., (1933) 142 Or 358, 19 P2d 413.

Prima facie evidence of ownership is overcome and is a question of law when there is clear, uncontradicted evidence which could not reasonably arouse disbelief showing ownership in one other than registrant. Wiebe v. Seely, (1959) 215 Or 331, 335 P2d 379.

Registration of title is prima facie evidence of ownership. Colby v. Long, (1961) 289 F2d 137.

An indorsement or assignment by the owner on the back of a certificate of title to a motor vehicle is competent evidence on an issue of ownership. South Seattle Auto Auction, Inc. v. Ladd, (1962) 230 Or 350, 370 P2d 630.

FURTHER CITATIONS: Gowin v. Heider, (1963) 237 Or 266, 386 P2d 1.

ATTY. GEN. OPINIONS: Issuance of license while ownership is being litigated, 1952-54, p 169; forest landowners as owners of vehicles used by association, 1956-58, p 80; impounding of leased vehicle, 1966-68, p 420; impoundment procedure, 1966-68, p 461.

LAW REVIEW CITATIONS: 44 OLR 77.

481.125

ATTY. GEN. OPINIONS: School districts as entitled to exemption provided in statute, 1920-22, p 488; license fee required for automobile owned by county school superintendent and leased to county, 1926-28, p 103; exemption of motor vehicles owned and operated by church, 1928-30, p 47; water district as a political subdivision entitled to refund of registration or license fees erroneously paid, 1930-32, p 573; forest landowners as owners of vehicles used by association, 1956-58, p 80; exemption extending to home water district of Multnomah County, 1960-62, p 292.

481.135

ATTY. GEN. OPINIONS: Registration for all vehicles using public ways as part of comprehensive system, 1958-60, p 64.

481.150

ATTY. GEN. OPINIONS: Cancellation of certificate of title, (1970) Vol 35, p 176.

481.155

NOTES OF DECISIONS

Law requiring registration of interstate automobiles, did not violate the interstate commerce clause of the U.S. Constitution. Camas Stage Co. v. Kozler, (1922) 104 Or 600, 209 P 95, 25 ALR 27.

FURTHER CITATIONS: Volmer v. Volmer, (1962) 231 Or 57, 371 P2d 70.

ATTY. GEN. OPINIONS: Resident of Washington, owning a farm in Oregon and operating a motor truck bearing a Washington license in hauling products from said farm to a warehouse 50 miles away, over state highways, as operating a motor vehicle over the highways of Oregon for

compensation or profit, 1936-38, p 665; construction of term "during but not beyond the current registration year," 1942-44, p 389.

481.165

CASE CITATIONS: *Camas Stage Co. v. Kozer*, (1922) 104 Or 600, 209 P 95, 25 ALR 27.

ATTY. GEN. OPINIONS: When a resident of Oregon holding an operator's license may legally operate a motor vehicle owned by another and registered in another state, 1930-32, p 83; resale by dealer of repossessed car bearing license plates issued by another state, 1930-32, p 602.

481.170

NOTES OF DECISIONS

This section confers upon the Secretary of State authority to issue a certificate of title to an automobile from another state, based upon the evidence contained in the certificate of title issued by such other state. *Maxwell Co. v. So. Ore. Gas Corp.*, (1938) 158 Or 168, 74 P2d 594, 75 P2d 9, 114 ALR 697.

ATTY. GEN. OPINIONS: Authority of a bona fide resident of an adjoining sister state to operate an automobile registered in such state though gainfully employed and temporarily living in Oregon, 1942-44, p 389.

481.177

CASE CITATIONS: *Roy L. Houck & Sons v. State Tax Comm.*, (1961) 229 Or 21, 366 P2d 166.

ATTY. GEN. OPINIONS: Use of highways by road graders and road rollers, 1958-60, p 64.

481.205 to 481.225

CASE CITATIONS: *Roy L. Houck & Sons v. State Tax Comm.*, (1961) 229 Or 21, 366 P2d 166.

481.205

ATTY. GEN. OPINIONS: Classification for purposes of registration of three-wheeled vehicle made by assembling parts of motorcycle and automobile, 1930-32, p 750; "Towermobile" as "motor truck" for purposes of registration fee, 1948-50, p 381; operation of Tournapull on highways, 1956-58, p 10; properly registered motor vehicles as exempt from ad valorem property tax, 1956-58, p 64; fuel tax proposed to acquire beach property, (1968) Vol 34, p 139; registration of vehicles not covered under this section, (1968) Vol 34, p 139.

481.210

CASE CITATIONS: *Powers v. Coos Bay Lbr. Co.*, (1954) 200 Or 329, 263 P2d 913; *Roy L. Houck & Sons v. State Tax Comm.*, (1961) 229 Or 21, 366 P2d 166; *California v. Buzard*, (1966) 382 US 386, 394, 86 S Ct 483, 15 L Ed 2d 442.

ATTY. GEN. OPINIONS: "Towermobile" as a motor truck, 1948-50, p 381; fees for vehicles with a load extending more than three feet beyond the front thereof, 1956-58, p 132; application to mobile cranes mounted on motor trucks, 1964-66, p 123; fuel tax proposed to acquire beach property, (1968) Vol 34, p 139.

481.215

ATTY. GEN. OPINIONS: Station wagon used exclusively for transportation of students to instructions as exempt from private carrier classification, 1952-54, p 173; fuel tax proposed to acquire beach property, (1968) Vol 34, p 139.

481.220

ATTY. GEN. OPINIONS: Weight of hoist included as part of dump truck body in determining weight of truck, 1934-36, p 208; the revolving drum on a truck used for transporting concrete as a part of the body of the truck in determining the weight of the truck, 1944-46, p 90.

481.225

ATTY. GEN. OPINIONS: Gratuitous transportation of horses for a neighboring farmer by a farmer owning and operating a truck licensed at one-half the regular fee, 1936-38, p 205; operator of apiaries as farmer, 1938-40, p 754; farm truck used to transport lumber as incident to farming operations, 1948-50, p 65; transportation of horses and cattle to rodeo as exclusively in connection with farm operation, 1956-58, p 131; farmer hauling rock and gravel as exempt under this section, 1962-64, p 158; fuel tax proposed to acquire beach property, (1968) Vol 34, p 139.

481.230

CASE CITATIONS: *Goodrich Silvertown Stores v. Collins*, (1941) 167 Or 40, 115 P2d 332.

ATTY. GEN. OPINIONS: Authority of Secretary of State to delegate to motor associations, or other private agency or organizations, power to accept motor vehicle license applications and fees to deliver permanent license plates to applicants, 1934-36, p 120.

481.240

ATTY. GEN. OPINIONS: When plates can be transferred from one vehicle to another, 1938-40, p 349; registering of truck permanently withdrawn from service in Oregon by a different owner, 1940-42, p 140; relicensing vehicles withdrawn from service and whose licenses have been transferred to other vehicles, 1940-42, p 305.

481.245

ATTY. GEN. OPINIONS: Return of checks for fees with incomplete applications, 1962-64, p 481.

481.255

NOTES OF DECISIONS

A city employe driving a city car without license plates violates this section. *State v. Preston*, (1922) 103 Or 631, 206 P 304, 23 ALR 414.

FURTHER CITATIONS: *In re Boalt*, (1927) 123 Or 1, 260 P 1004.

ATTY. GEN. OPINIONS: Licensing requirements for tank trucks used for fire protection, 1954-56, p 159; jurisdiction of Portland municipal courts over violations, 1956-58, p 28.

481.260

NOTES OF DECISIONS

Authorization of temporary permits did not relax requirement that applicant must be entitled to a certificate

of title nor modify provisions governing the method of securing new registration and certificate of title when a car is sold. *Larison-Frees Chevrolet Co. v. Payne*, (1939) 163 Or 276, 96 P2d 1067.

ATTY. GEN. OPINIONS: Licensing requirements for tank trucks used for fire protection, 1954-56, p 159.

481.270

NOTES OF DECISIONS

An amendment of an Act may be resorted to for discovery of the legislative intention in the enactment amended. *Roy L. Houck & Sons v. State Tax Comm.*, (1961) 229 Or 21, 366 P2d 166; *Roy L. Houck & Sons v. State Tax Comm.*, (1963) 1 OTR 286.

This section is a valid exercise of the police power. *Camas Stage Co. v. Kozzer*, (1922) 104 Or 600, 602, 209 P 95, 25 ALR 27.

A municipal license fee imposed on a carrier of passengers of motor vehicle between two cities, not being for regulatory purposes, is invalid. *Parker v. Silverton*, (1923) 109 Or 298, 220 P 139, 31 ALR 589.

Vehicles are exempt from all other taxes and licenses except municipal license fees. *Martine v. Kozzer*, (1926) 11 F2d 645.

License tax, imposed on motor vehicles by city for regulatory purposes, should not materially exceed approximate anticipated expense of issuing licenses and inspecting and regulating vehicles so as to require compliance with regulations. *In re Fine*, (1928) 124 Or 175, 264 P 347.

Further vehicular regulations by municipalities may be adopted in addition to the regulations imposed by state laws. *Covey Garage v. Portland*, (1937) 157 Or 117, 70 P2d 566.

The fact that the imposition of a five cent parking fee by parking meter ordinances resulted in considerable revenue to the city did not classify as revenue measures the ordinances which were unquestionably enacted for traffic regulation and not for revenue, and which authorized application of the revenue to the broad purposes of general traffic control without limitation to the mere installation, operation and maintenance of the meters. *Hickey v. Riley*, (1945) 177 Or 321, 162 P2d 371.

The assessor was estopped to deny a June 6 filing deadline when he sent an outdated form for requesting cancellation. *Johnson v. State Tax Comm.*, (1967) 248 Or 460, 435 P2d 302, aff'd 2 OTR 504; *Contra*, *Friendly Chevrolet v. State Tax Comm.*, (1968) 3 OTR 235.

When assessor sent taxpayer forms showing incorrect filing date for application for exemption, exemption filed late was allowed. *Johnson v. State Tax Comm.*, (1967) 2 OTR 504, aff'd, 248 Or 460, 435 P2d 302.

FURTHER CITATIONS: *Stevens v. Hurlburt*, (1922) 104 Or 233, 207 P 167; *Northwest Auto Co. v. Hurlburt*, (1922) 104 Or 398, 207 P 161; *Covey Motor Co. v. Hurlburt*, (1922) 104 Or 414, 207 P 166; *Dent v. Oregon City*, (1923) 106 Or 122, 211 P 909; *Lyons v. Portland*, (1925) 115 Or 533, 235 P 691; *California v. Buzard*, (1966) 382 US 386, 394, 86 S Ct 483, 15 L Ed 2d 442; *M & S Constr. Co. v. Commission*, (1968) 3 OTR 165; *Century Pontiac, Inc. v. State Tax Comm.*, (1968) 3 OTR 205; *Bernard Chevrolet Co. v. State Tax Comm.*, (1969) 3 OTR 411.

ATTY. GEN. OPINIONS: Authority of Department of Agriculture to collect registration fees for bakery vehicles as provided by ORS 625.180, notwithstanding this section, 1942-44, p 415; trailer houses for which application for registration has not been made by January 1, as subject to assessment for ad valorem taxation, 1946-48, p 159; validity of an additional tax on certain motor vehicles, 1950-52, p

116; validity of assessment of motor vehicle transportation companies, 1950-52, p 131; taxability of Tournapull as personal property, 1956-58, p 10; imposition of ad valorem taxes on vehicles, 1956-58, p 64; personal property taxes on motor vehicle fuel, 1956-58, p 192; taxability of unregistered road graders and road rollers, 1958-60, p 64; application to mobile cranes mounted on motor trucks, liability for ad valorem taxes on mobile cranes used as log loaders, 1964-66, p 123.

LAW REVIEW CITATIONS: 6 WLJ 587-596.

481.272

NOTES OF DECISIONS

Self-propelled mobile cranes were not exempt from taxation on January 1, 1963. *Oldham v. State Tax Comm.*, (1964) 2 OTR 40.

Plaintiff's van-type trailers were designed for transportation and were not fixed load vehicles subject to ad valorem taxes. *M & S Constr. Co. v. State Tax Comm.*, (1968) 3 OTR 165.

FURTHER CITATIONS: *Roy L. Houck & Sons v. State Tax Comm.*, (1961) 229 Or 21, 366 P2d 166; *Roy L. Houck & Sons v. State Tax Comm.*, (1963) 1 OTR 286.

ATTY. GEN. OPINIONS: Application to mobile cranes mounted on motor trucks, liability for ad valorem taxes on mobile cranes used as log loaders, 1964-66, p 123.

481.305 to 481.340

CASE CITATIONS: *Butte Motor Co. v. Strand*, (1960) 225 Or 317, 358 P2d 282.

481.305

CASE CITATIONS: *Ramp v. Osborne*, (1925) 115 Or 672, 239 P 112; *Randolph v. Delaney Ford, Inc.*, (1966) 245 Or 226, 420 P2d 642.

ATTY. GEN. OPINIONS: Licensing of person selling or trading motor vehicles upon a commission basis for a licensed dealer in motor vehicles, 1926-28, p 259; assignment or transfer of motor vehicle dealer's license and bond, 1926-28, p 304; necessity of application for new license where partnership is dissolved and new partnership is formed, 1926-28, p 572; what constitutes legal notice sufficient to effect a cancellation of motor vehicle dealer's bond, 1930-32, p 229; duty of dealer who is also carrying on the business of an automobile wrecker to file bonds and secure licenses under both classifications, 1932-34, p 255; authority to revoke certificate on application for dealer's license, 1952-54, p 213; "used vehicle" distinguished from "new vehicle," 1956-58, p 185; legality of dealer or lessor disconnecting odometer, (1969) Vol 34, p 811.

481.310

NOTES OF DECISIONS

The failure to perform a promise relating to future action or conduct does not constitute fraud. *Warner Motor Co. v. Strand*, (1960) 225 Or 315, 358 P2d 282; *Butte Motor Co. v. Strand*, (1960) 225 Or 317, 358 P2d 279.

The liability of a surety under a statutory bond is measured and defined by the statute requiring the bond, and any additions not required by the statute are void and may be treated as surplusage. *Id.*

The surety is not liable unless the dealer's violation of this chapter is the cause of the loss. *Randolph v. Delaney Ford, Inc.*, (1966) 245 Or 226, 420 P2d 642.

The case was properly submitted to jury for consideration

of surety's liability after verdict was directed against principal. *Kliks v. McCaffrey*, (1960) 221 Or 81, 350 P2d 417.

FURTHER CITATIONS: *Commercial Sec. Inc. v. Gen. Ins. of Am.*, (1966) 269 F Supp 398.

ATTY. GEN. OPINIONS: Assignment or transfer of motor vehicle dealer's license and bond, 1926-28, p 304; requirement that bond of motor vehicle dealer contain addresses of all such dealer's places of business and names under which he is operating, 1930-32, p 146; legality of dealer or lessor disconnecting odometer, (1969) Vol 34, p 811.

LAW REVIEW CITATIONS: 40 OLR 210; 41 OLR 202.

481.320

ATTY. GEN. OPINIONS: Registration and payment of registration fee by motor vehicle dealer as compulsory, 1932-34, p 365; authority to revoke certificate on application for dealer's license, 1952-54, p 213.

481.325

NOTES OF DECISIONS

A dealer's license plate does not constitute evidence of ownership. *Ramp v. Osborne*, (1925) 115 Or 672, 239 P 112.

That a car was being driven on the dealer's business is a reasonable inference from the fact that it bore the dealer's license. *Miller v. Service and Sales*, (1934) 149 Or 11, 38 P2d 995, 96 ALR 628.

A disputable presumption of ownership of an automobile by defendant is created by the presence on it of his dealer's license plates. *Henry v. Condit*, (1936) 152 Or 348, 53 P2d 722, 103 ALR 131.

ATTY. GEN. OPINIONS: Use of dealer's license upon motor vehicles used in connection with the operation of a garage or repair shop, 1924-26, p 496; use of dealers' license plates, 1926-28, p 176; right of dealer to allow automobile bearing dealer's license plates to be used by prospective purchaser, 1928-30, p 74; fees for issuance of duplicate set of license plates, 1928-30, p 441.

481.330

ATTY. GEN. OPINIONS: Right of motor vehicle dealer to move its place of business from one city to another, 1926-28, p 572; licensing of salesmen of motor vehicle dealers who live in another city than that of dealer's business, 1928-30, p 73.

481.335

ATTY. GEN. OPINIONS: Sheriff's authority to sign certificates for dealers within the limits of a city, 1952-54, p 213.

481.345 to 481.370

ATTY. GEN. OPINIONS: Authority of State Highway Commission to comply with Highway Beautification Act, 1964-66, p 336.

481.345

ATTY. GEN. OPINIONS: Persons required to obtain a license for "carrying on the business" of wrecking automobiles, 1932-34, pp 255, 432; revocation of wrecker's license when recommendation was signed by the county judge, 1952-54, p 205.

481.350

ATTY. GEN. OPINIONS: Cancellation of wrecker's license for failure to meet conditions precedent to issuance, 1952-54, p 205; authority to revoke certificate on application for dealer's license, 1952-54, p 213.

481.370

ATTY. GEN. OPINIONS: Construing "solid enclosure," 1962-64, p 256.

481.405

NOTES OF DECISIONS

This section does not provide an exclusive method of transferring title to motor vehicles. *Maxwell Co. v. So. Ore. Gas Corp.*, (1938) 158 Or 168, 74 P2d 594, 75 P2d 9, 114 ALR 697; *Larison-Frees Chevrolet Co. v. Payne*, (1939) 163 Or 276, 96 P2d 1067.

Failure to notify the department, does not affect the validity of the sale, but transferee's title is good except against persons, creditors or innocent purchasers misled by the record. *South Seattle Auto Auction, Inc. v. Ladd*, (1962) 230 Or 350, 370 P2d 630; *Twombly v. Wulf*, (1971) 258 Or 188, 482 P2d 166.

A buyer's failure to forward the receipt of registration to the Secretary of State within 10 days did not result in a loss of his ownership of the vehicle. *Thiering v. Gage*, (1930) 132 Or 92, 284 P 832.

Prima facie evidence of ownership of the vehicle is furnished by introduction in evidence of the assignment on the back of the title certificate. *Hayes v. Ogle*, (1933) 143 Or 1, 21 P2d 223.

A certified copy of the record of the certificates and assignments filed with the Secretary of State is admissible in evidence. *Id.*

A presumption that an assignment was made on the date it bears arises by the introduction in evidence of the assignment on the back of the certificate. *Id.*

A person makes himself subject to a penalty by failing to comply with this section and, where the rights of third parties who rely on the record title intervene, an attempted sale may be voided. *Maxwell Co. v. So. Ore. Gas Corp.*, (1938) 158 Or 168, 74 P2d 594, 75 P2d 9, 114 ALR 697.

An indorsement or assignment by the owner on the back of a certificate of title to a motor vehicle is competent evidence on an issue of ownership. *South Seattle Auto Auction, Inc. v. Ladd*, (1962) 230 Or 350, 370 P2d 630.

Failure to comply with this section was not conclusive in an action for breach of warranty of title to sale of an automobile, against plaintiff's theory that he purchased the automobile. *Maxwell Co. v. Southern Ore. Gas Corp.*, (1938) 158 Or 168, 74 P2d 594, 75 P2d 9, 114 ALR 697.

FURTHER CITATIONS: *Sargent v. Pendleton Auto Co.*, (1927) 121 Or 677, 257 P 23; *Commercial Fin. Corp. v. Burke*, (1944) 173 Or 341, 145 P2d 473, 151 ALR 684; *Dicillo v. Osborn*, (1955) 204 Or 171, 282 P2d 611; *Valley Motor Co. v. Ralls*, (1960) 224 Or 290, 355 P2d 1100.

ATTY. GEN. OPINIONS: Duty of dealer who is also carrying on the business of an automobile wrecker to file bonds and secure licenses under both classifications, 1932-34, p 255; mandatory issuance of certificate of title involving purchases from dealer, 1952-54, p 169; term of impoundment of leased vehicle, 1966-68, p 437; duty when mobile home owner is different on assessment roll, (1970) Vol 35, p 176.

481.410

ATTY. GEN. OPINIONS: Requiring or permitting issuance of a new certificate of title in case of the assignment of mortgage on the motor vehicle by the mortgagee, 1928-30, p 536; making of loan secured by second mortgage upon a motor vehicle, 1936-38, p 362; filing of notice of claim of lien with Secretary of State, 1948-50, p 302.

LAW REVIEW CITATIONS: 42 OLR 11.

481.415

CASE CITATIONS: Larison-Frees Chevrolet Co. v. Payne, (1939) 163 Or 276, 96 P2d 1067.

ATTY. GEN. OPINIONS: Determining if applicant has right to certificate of title, 1952-54, p 169.

481.420**NOTES OF DECISIONS**

The presence upon a car of a dealer's plates creates a disputable presumption that he owns the car, in an action arising out of an accident in which such car was involved. Henry v. Condit, (1936) 152 Or 348, 53 P2d 722, 103 ALR 131.

481.430

CASE CITATIONS: Gowin v. Heider, (1963) 237 Or 266, 386 P2d 1.

ATTY. GEN. OPINIONS: Meaning of "new" motor vehicle, 1956-58, p 185.

481.450 to 481.512

ATTY. GEN. OPINIONS: Determining situs of house trailer, 1960-62, p 248; charging administrative expenses against collections, 1964-66, p 295; taxation of house trailers fixed to land after licensing, (1968) Vol 34, p 104; fuel tax proposed to acquire beach property, (1968) Vol 34, p 139.

481.460

ATTY. GEN. OPINIONS: Charging administrative expenses against collections, 1964-66, p 295.

481.915

ATTY. GEN. OPINIONS: Migratory chattel function transferred to Department of Motor Vehicles, 1956-58, p 7.

481.930

ATTY. GEN. OPINIONS: Appointment of director, 1954-56, p 225.

481.940

LAW REVIEW CITATIONS: 1 WLJ 148, 152, 225.

481.950

CASE CITATIONS: Martine v. Kozer, (1926) 11 F2d 645.

ATTY. GEN. OPINIONS: Transfer of migratory chattel function to Department of Motor Vehicles, 1956-58, p 7; liability of collection agent for stolen license fees, 1956-58, p 98; including funds from Use Fuel Tax in apportioned funds, 1960-62, p 338; use of unclaimed motor boat fuel tax refund, 1962-64, p 67; return of checks for fees with incomplete applications, 1962-64, p 481; charging administrative expenses against aircraft fuel tax collections, house trailer fees, Student Driver Training fees and fees for Motor Vehicle Accident Fund, 1964-66, p 295; use of State Highway Fund money except on county roads, 1966-68, p 571.

481.990**NOTES OF DECISIONS**

"Stolen" was not intended to include only automobiles taken from the owners by acts of trespass. State v. Stuart, (1968) 250 Or 303, 442 P2d 231.

An indictment, substantially in the language of the statute, charging defendant with having "reason to believe" the vehicle was stolen was not unconstitutionally vague. State v. Gulbrandson, (1970) 2 Or App 511, 470 P2d 160.

FURTHER CITATIONS: Landreth v. Gladden, (1958) 213 Or 205, 324 P2d 475; State v. Dickson, (1966) 244 Or 114, 415 P2d 739.

ATTY. GEN. OPINIONS: Duty when mobile home owner is different on assessment roll, (1970) Vol 35, p 176.

LAW REVIEW CITATIONS: 48 OLR 293-299.