

**OPINION  
46-196**

June 13, 1946           (OPINION)

MOTOR VEHICLES

RE: Reconstructed - License Plates

This office is in receipt of your letter dated June 10, 1946, in which you request our opinion as to the registration fee you would be required to pay for the registration of a motor vehicle resurrected from your car lot of junked automobiles, repaired or rebuilt, and made usable for operation on the highways. You say in your letter that the motor vehicle registrar requires a fee of \$5.00 for each year since the last registration of such car, even though the registration fee was only \$3.00.

Section 39-0441 of the Revised Code provides:

Upon satisfactory proof to the registrar that a vehicle owned by a resident of this state was not used upon any of the highways of this state in any one or more years, such vehicle, upon the payment of the fee for the current year prescribed in this chapter, and upon the further payment of a flat fee of five dollars for each calendar year in which the vehicle was not registered and no license fee was paid therefor, may be registered without any additional penalty."

The provisions of section 39-0441, of the Revised Code, were originally adopted as a part of section 29 of chapter 160 of the 1933 Session Laws. Of course, as stated in your letter, the statutory requirement that a fee of \$5.00 must be paid for the registration of an old motor vehicle, not used on the highways, for each year since such vehicle was last registered, whereas if actually operated on the highways only a minimum annual fee of \$3.00 would have been charged, is inconsistent and unreasonable. But this situation is not due to an arbitrary ruling of the state motor vehicle registrar. It is due to the omission of the legislature to enact legislation covering the situation such as the one with which you are concerned.

It is my opinion, however, that section 39-0441, of the Revised Code, applies to a motor vehicle which has not been operated on the highways--that is to say--a motor vehicle which could have been used but which has been stored or at least not used. It does not apply to a worn-out motor vehicle placed in a car lot for the sole purpose of stripping it of usable parts and selling such parts to anyone who might need them. In other words, it is my opinion that the legislature did not intend that the provisions of section 39-0441, of the Revised Code, should apply to a motor vehicle placed in a used car lot as junk and later resurrected and made usable by being reconstructed with parts taken from other vehicles in the car lot. But if such vehicle has actually been usable, even though it may require considerable repairs in order to be operated, and is sold as a used car, then the provisions of section 39-0441 are applicable. For all cars used on the highways are often in need of parts and repairs.

The motor vehicle registrar is authorized to register a "reconstructed vehicle" as that term is defined in section 39-0401, of the 1943 Revised Code, upon payment of the registration fee for the current year. Subsection 4 of section 39-0401, of the Revised Code, provides:

'Reconstructed vehicle' shall mean any vehicle which shall have been assembled or constructed largely by means of new or used essential parts, derived from other vehicles or makes of vehicles of various names, models, and types, or which if originally otherwise constructed shall have been altered materially by the removal of essential parts or by the addition or substitution of new or used essential parts derived from other vehicles or makes of vehicles, except that a motor vehicle that has been constructed by the use of a complete old or new engine, differential, or transmission, may be registered by the payment of the fee for the calendar year on satisfactory proof to the department of such reconstructed vehicle."

Enclosed I hand you an affidavit required from an applicant for registration of a reconstructed motor vehicle.

NELS G. JOHNSON

Attorney General