

# MAINE STATE LEGISLATURE

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March 20, 1946

To Laurence C. Upton, Chief, State Police  
Re: Inspection before Delivery of Car; Exception.

Lt. McCabe brought in a letter addressed to you by Trooper Edward F. Gordon, wherein he refers to a letter written by me to Jacob H. Berman, attorney for Chaplin Motors, Inc., which Mr. Berman exhibited to Judge LeBlanc of Westbrook, I presume for the purpose of preventing the issuance of a warrant against Chaplin Motors, Inc., for violation of Section 35 of Chapter 19, R. S. 1944. Your department now has a ruling which I made on April 11, 1944, and in which I ruled that the provisions of that section, relating to dealers, apply to cars not only that have been permitted to be operated on the highway in the course of demonstrating the vehicles, but also to a sale made of a vehicle which, in my opinion, was a release thereof for operation on the highways within the terms of that section.

I have not changed my mind, and Trooper Gordon did not interpret my letter to Mr. Berman to affect in any way the opinion that I had given to your department.

The letter referred was in response to one written by Mr. Berman on March 8th, and the facts, as he gave them to me, were as follows: "A dealer, for cash, sells an automobile as is and where it sets. The automobile does not have a safety sticker; the dealer refuses to put a safety sticker on it; the purchaser takes the car and is arrested and fined for operating a car without a sticker. A State Police officer states that he has a ruling from you to the effect that in a case of this kind the dealer is responsible."

In reply I sent him a copy of the opinion that I had written. I then stated that I realized, of course, that a dealer might sell a car for junk and expect that it would be towed away as such; under those circumstances I would say that the responsibility would lie with the buyer, as the seller would not then be releasing the car for operation on the highway.

The reason for my comment was that in his statement of the facts he had stated that the vehicle did not have a safety sticker and the dealer refused to put a safety sticker on it. I concluded that the dealer was selling a piece of junk that he expected was to be towed away, and that was the exception that I made. He said nothing about the fact that the dealer had issued the paper registration plates, which seems to be an act inconsistent with his care in refusing to put on a sticker; yet he issued the plates, so that the car could be operated. I trust that this fully explains that phase of the inquiry by the trooper.

He also asks about the prosecution of the dealer. It would seem to me, where he prosecuted the operator and the latter was fined and payment was made of the fine and costs, that I would let the matter now rest, especially where the Chaplin Motors, Inc., now are aware that they are subject to prosecution. I am familiar with the operators

of this corporation and I have known those in control for a number of years. They are a high-grade outfit. I don't believe that they defiantly intended to disregard the law. I would rather feel that it was an oversight, or an act on the part of some salesman. I have bought two cars from them, the last of which I now operate, and I have always found their dealings very satisfactory, upright and honorable; and it is my experience with them that makes me feel that this was not deliberate. It having been brought to their attention, I don't believe that the department will have any further trouble on that account. . .

Abraham Breitbard  
Deputy Attorney General

AB:c