October 8, 1975

ATTORNEY GENERAL OPINION NO. 75-390

The Honorable E. Richard Brewster
Kansas State Representative
51st District
5334 S.W. Wanamaker
Topeka, Kansas 66610

Re: Motor Vehicles--Certificate of Title--Late Delivery

Synopsis: Failure of the parties to the sale of a motor vehicle to transfer a certificate of title thereto, with an appropriate assignment, at the time of the sale or within fifteen days thereafter renders the sale void and fraudulent by operation of law, and the sale remains so despite the buyer's subsequent acceptance of certificate of title.

* * *

Dear Representative Brewster:

You inquire whether a sale of a motor vehicle which is void under the above statute for failure of the seller to transfer an assigned certificate of title to the buyer within the period of time permitted by law is rendered valid and binding upon the purchaser's acceptance of a certificate of title beyond the statutory fifteen-day period.


In many jurisdictions wherein provisions is made for the issuance of certificates of title to motor vehicles, the sale or transfer of a motor vehicle is consummated by the assignment
of the certificate of title to the purchaser or transferree in
the method prescribed by statute. Commercial Finance Corporation
v. Burke, 173 Ore. 341, 145 P.2d 473. In Kansas, the statutory
provisions as to the assignment of the certificate of title to
a motor vehicle upon the sale or transfer of the vehicle are viewed
as absolute and mandatory and are rigidly enforced by the courts.
The assignment of the certificate of title in the manner provided
by the statute is the exclusive and only method of transferring
title to a motor vehicle.

As the court reiterated most recently in Wilcox Trailer Sales,
Inc. v. Miller, supra:

"This court has repeatedly stated that the
provisions of 8-135(c)(6) mean exactly what
they say, and that they are to be literally
interpreted, and strictly enforced, and that
failure to comply with its provisions renders
the sale of a vehicle required to be regis-
tered under the Act fraudulent and void."

200 Kan. at 321.

The sale is not merely voidable, but void. The statute was not
designed merely to secure the rights of parties to particular sales.
It was designed to implement a public policy:

"The statute was enacted not only to protect
the public against fraud and prevent traffic
in the sale of stolen automobiles but also to
lend stability and certainty in the business
climate surrounding each transaction. . . ."

Maryland Cas. Co. v. American Family Insurance
Group, 199 Kan. 373, at 378-379, 429 P.2d 931
(1967).

If the sale is void ab initio and fraudulent, as the statute says
it shall be, nothing the parties can do thereafter will breathe
life and vitality into that which the legislature has declared to
be wholly without legal effect. Accordingly, it is my opinion
that transfer of the certificate of title after the passage of
the fifteen-day statutory period does not validate that which
the legislature has held shall be invalid, and that the sale
remains void notwithstanding the purchaser's acceptance of the
belated delivery of title.

Very truly yours,

CURT T. SCHNEIDER
Attorney General