



STATE OF KANSAS

## Office of the Attorney General

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**Curt T. Schneider**  
Attorney General

May 18, 1977

ATTORNEY GENERAL OPINION NO. 77-163

Mr. Tim W. Ryan  
County Attorney  
509 Court Street  
Clay Center, Kansas 67432

RE: Certificate of inspection for certain motor vehicles  
required prior to registration--exceptions.

Synopsis: An automobile sold "as is" at a public auction may be  
sold with a highway title, if the proper notice is  
given to the purchaser, as provided in K.S.A. 1976  
Supp. 8-1754.

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Dear Mr. Ryan:

You inquire whether an automobile sold at public auction,  
without a certificate of approval, must be sold with a non-highway  
title.

K.S.A. 1976 Supp. 8-1754 provides that no motor vehicle shall  
be sold at retail or registered in this state for the first time  
unless a certificate of approval has been issued for that motor  
vehicle not more than ninety days prior to the sale or application  
for registration. If there is no such certificate, the seller or  
applicant has the responsibility of obtaining one.

The statute defines "sale of motor vehicle at retail" as a  
"transaction where the title of a motor vehicle is transferred for  
consideration from one person to another," but lists four excep-  
tions: sale by a licensed dealer, sale of motor vehicle as "junk"  
to the owner of a "junkyard", sale of a motor vehicle with a non-  
highway title, and sale of a motor vehicle to an insurer.

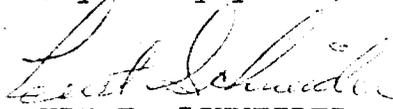
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The statute further provides that the sale of a motor vehicle at public auction is a "sale at retail", but that in such an instance the motor vehicle may be sold without a certificate of approval if the seller informs the purchaser that it will be the responsibility of the purchaser to obtain a certificate prior to registering the vehicle in this state.

Sellers of vehicles with non-highway titles are exempt from the requirement of obtaining a certificate because those sales are excepted from the definition of "sale at retail". If the statute contemplated that vehicles sold at public auction without certificates were to be sold with non-highway titles, there would be no need to define those sales as sales at retail and yet exempt the sellers from the responsibility to obtain the certificate. Thus, it appears that the legislature intended that vehicles could be sold at public auction without certificates of inspection but with their regular highway titles. Furthermore, the definition of non-highway vehicle in K.S.A. 8-197 does not necessarily include all uninspected vehicles, although such a vehicle might be a non-highway vehicle within the definition. K.S.A. 1976 Supp. 8-198 requires the seller of a non-highway vehicle with a highway title to first obtain a non-highway title and then assign that title to the purchaser. However, that requires the seller to know that the vehicle is a non-highway vehicle, that is, one which (1) may not be registered because it is not provided with the required equipment, or (2) which has been damaged to the extent that the required equipment is not present or not in operating condition, or the vehicle is in irreparable or hazardous condition, and which in any event will be destroyed or sold as junk, or will require substantial repairs to be restored to a condition which will permit registration.

It is apparent from that definition that vehicles sold at public auction without certificates of approval might be highway or non-highway vehicles, depending on the situation, and would require the appropriate title. Thus, I conclude that there is no requirement that all vehicles sold at public auction without certificates of approval have non-highway titles.

Very truly yours,

  
CURT T. SCHNEIDER  
Attorney General

CTS/ERH/cgm