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JUN 27 1985

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Honorable Polly Leopard
License Commissioner, Limestone County
Athens, AL 35611

Mobile Homes -- Licenses and
Permits -- Penalties

A violation of §40-12-255,
Code of Alabama 1975 which
requires that house trailers
located in Alabama be regis-
tered as motor vehicles, is a
misdemeanor offense pursuant
to the provisions of §32-6-51,
Code of Alabama 1975 and
penalties may be properly as-
sessed pursuant to §32-6-65
for late registration under
the staggered registration
law.

Dear Commissioner Leopard:

Your recent letter addressed to the Honorable Charles A. Graddick, Attorney General of the State of Alabama, has been received. In your letter you requested an opinion as to the proper procedure that should be followed when a person has been charged with a violation of §40-12-255, Code of Alabama 1975 (failure to register a house trailer), and what fine or sentence should be imposed. In addition you requested an opinion as to whether a violation of §40-12-255 should be prosecuted pursuant to the misdemeanor provisions contained in §32-6-51, Code of Alabama 1975. Finally, you requested an opinion as to whether a district court fine and sentence affected the penalties prescribed for a violation of the motor vehicle license tag law contained in §32-6-65, Code of Alabama 1975. I will address these questions in the order in which they have been raised in your letter.

Section 40-12-255, Code of Alabama 1975 levies a registration fee for house trailers and imposes certain penalties for non-compliance. Section 40-12-255, provides in part:

Every person, firm or corporation who owns, maintains or keeps in this state a house trailer, . . . shall pay an annual registration fee of \$3.00; and upon payment thereof such owner shall be furnished an identification tag which shall be immediately attached to and at all times thereafter displayed on the back of the trailer for which the registration fee was paid. The registration fee hereby provided for shall be paid in the county in which such trailer is customarily kept to the same county official who issues motor vehicle license tags in such county and shall be due, payable and delinquent at the same times that motor vehicle license taxes are due, payable and delinquent. The official collecting such registration fees and issuing such identification tags in evidence of payment thereof shall be entitled to the same fees therefore that he receives for issuing motor vehicle license tags. He shall distribute the proceeds of such registration fee at the same time, in the same manner and proportions and under the same pains and penalties as he does the proceeds of motor vehicle licenses; . . .

The owner of any house trailer who fails to pay the registration fee hereby provided for or who fails to display the identification tag on such trailer, as hereinabove required, shall be subject to the same penalties prescribed by law for a like offense relative to the payment of motor vehicle license taxes and the affixing of motor vehicle license tags; and this section shall be enforced by the same officers, under the same conditions and through the same procedures that laws relative to the issuance and display of motor vehicle license tags are; except, that failure to comply with this section shall constitute an offense whether the house trailer is or is not used or operated on the roads or highways of the state. (Emphasis supplied).

From the underlined portions of the above quoted statute, it is clear that when a person, firm or corporation who owns, maintains or keeps a house trailer in the State of Alabama violates the provisions of §40-12-255, then that person "shall be

subject to the same penalties prescribed by law for a like offense relative to the payment of motor vehicle license taxes". Section 32-6-51, Code of Alabama 1975 prescribes the criminal sanctions for a violation of the motor vehicle license tag laws, and provides in pertinent part:

Any one violating the provisions of this section shall be guilty of a misdemeanor and shall, upon conviction, be punished by a fine not exceeding \$500.00 and, in addition thereto, shall be prohibited from driving a motor vehicle in Alabama for a period of not less than 60 days nor more than 6 months.

Since §40-12-255 clearly states that anyone guilty of violating the provisions contained in the section is to be "subject to the same penalties prescribed by law for a like offense relative to the payment of motor vehicle license taxes and the affixing of motor vehicle license tags" and that §40-12-255 "shall be enforced by the same officers, under the same conditions and through the same procedures that laws relative to the issuance and display of motor vehicle license tags are (enforced)", it is my opinion that the criminal sanctions contained in §32-6-51, Code of Alabama 1975 are the proper sanctions to be imposed for a violation of §40-12-255, Code of Alabama 1975. Therefore, a district court in a criminal proceeding for a violation of §40-12-255, Code of Alabama 1975 may impose a fine not exceeding \$500.00 and, in addition, the person found guilty of violating §40-12-255 shall be prohibited from driving a motor vehicle in Alabama for a period of not less than 60 days nor more than 6 months.

Section 32-6-65 provides certain penalties for the late registration of a motor vehicle under the staggered system of motor vehicle registration. Section 32-6-65(b) provides:

(b) A penalty of \$15.00 shall be assessed by the official charged with issuing motor vehicle licenses for the late registration of a motor vehicle under the system of registration imposed by this subdivision. Licenses shall be renewed at any time during the month of expiration; provided, however, persons renewing licenses within 10 calendar days after the month of expiration shall pay only a \$2.00 penalty fee. Persons renewing licenses 20 days after the \$2.00 penalty fee limit shall pay \$15.00. Persons renewing licenses after the \$15.00 penalty fee shall pay \$25.00. It shall be the duty of all sheriffs, police officers, state troopers, license inspectors, deputy license inspectors, field agents of the Department of Revenue, and other law enforcement officers

to arrest any person operating a motor vehicle without the current license plate displaying the proper tab, disc or decal. Persons apprehended, more than 10 days after the month of expiration of the license, upon conviction by a court of competent jurisdiction, shall be fined not less than \$25.00.

The penalty provisions contained in §32-6-65(b) are civil sanctions to be imposed upon any person guilty of late registration of a motor vehicle. The civil sanctions are in addition to any criminal sanctions that may be imposed. However, §32-6-65(b) provides a specific criminal penalty in addition to the civil penalty that may be imposed. Thus, a late registrant of a motor vehicle under the staggered registration system, who is apprehended more than 10 days after the month of expiration of the license, upon conviction by a court of competent jurisdiction shall be fined not less than \$25.00. The civil penalties imposed by §32-6-65 are in addition to the criminal sanctions and thus must be collected prior to the issuance of the new license plate. However, it is my opinion that since §32-6-65(b) contains a specific criminal sanction for the late registration of a motor vehicle, then §32-6-65(b) is controlling over the general sanctions contained in §32-6-51, Code of Alabama 1975. Thus, a late registrant of a mobile home would be subject to criminal prosecution under the provisions of §32-6-65(b) and not §32-6-51. However, a person owning a mobile home in the State of Alabama who has failed to obtain any motor vehicle license for the mobile home would in my opinion be subject to the criminal sanctions contained in §32-6-51, Code of Alabama 1975. Since the person would be charged with a failure to obtain the proper motor vehicle license and not for late registration, then the penalties imposed by §32-6-65(b), Code of Alabama 1975 could not be imposed upon conviction. However the penalties would still have to be collected when the license tag is issued to the person convicted for a violation of §40-12-255.

It is hoped that the above information fully answers the questions contained in your request, and if I can be of any further service to you in this matter, please do not hesitate to contact me.

Sincerely,

CHARLES A. GRADDICK,
Attorney General

By-


JOHN J. BRECKENRIDGE,
Assistant Attorney General

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