

The presumption that one using an automobile upon which is affixed a dealer's license was an employe of the dealer and within the scope of his employment is rebuttable. *Buchholz v. Kastner*, 193 W 224, 231, 213 NW 329.

341.55 History: 1957 c. 260, 554; Stats 1957 s. 341.55.

341.57 History: 1957 c. 554; Stats. 1957 s. 341.57; 1967 c. 92 s. 22; 1967 c. 229; 1969 c. 500 s. 30 (3) (i).

341.60 History: 1957 c. 260; Stats. 1957 s. 341.60; 1961 c. 560.

Legislative Council Note, 1957: This section is largely new, though it covers that part of s. 85.01 (4) (j) which prohibits the giving of an erroneous address in an application for registration of a vehicle subject to registration on the basis of gross weight. Presently there is no penalty for falsifying an application for registration except in the case of a vehicle being registered on the basis of gross weight. There is a penalty for making a false statement in an application for a certificate of title, but the penalty (\$5,000 fine or 5 years imprisonment or both) is out of proportion to the seriousness of the offense contemplated by the new section.

Specifically, this section is aimed at a situation which currently is causing considerable difficulty in the administration of the registration laws. The motor vehicle department has been receiving an unusually large number of applications for registration of new automobiles which are made out in the name of a fictitious person or a person other than the true owner or giving a false address. This section should help curb that practice. [Bill 99-S]

341.61 History: 1957 c. 260; Stats. 1957 s. 341.61; 1959 c. 542.

Legislative Council Note, 1957: Subsection (1) is not in the present law but in effect incorporates into the statutes an attorney general's ruling that a person who lends registration plates to a person he knows is not entitled to use them is concerned in the commission of the crime of using plates on a vehicle for which they were not issued and therefore may be prosecuted for that crime. 40 Atty. Gen. 325 (1951).

Subsection (2) is substantially a restatement of parts of s. 85.01 (4) (i) and 85.01 (6) (c) 2. The phrase "or not otherwise authorized by law to be used thereon" refers to plates issued for automobiles registered under the monthly series system. When ownership of such an automobile is transferred, the plates must be removed by the seller and attached to the automobile which he purchases. Such plates therefore may under certain circumstances be attached to a vehicle for which they were not issued. In most other cases, the plates stay with the vehicle for which they were issued, regardless of the transfer of the ownership of the vehicle. See s. 342.18. [Bill 99-S]

341.62 History: 1957 c. 260; Stats. 1957 s. 341.62; 1969 c. 500 s. 30 (3) (i).

Legislative Council Note, 1957: This section

is based upon the first sentence of s. 85.01 (4) (1) but the scope of the present law has been expanded somewhat. The present law prohibits the alteration or fashioning of "any metal number plates" so as to imitate or resemble the current registration plates. The new section uses the term "plate or similar device" because it is possible to use materials other than metal to imitate current registration plates, and every method of imitation obviously should be prohibited. [Bill 99-S]

341.63 History: 1957 c. 260; Stats. 1957 s. 341.63; 1969 c. 500 s. 30 (3) (h), (i).

A person operating a motor vehicle with license plates issued on a license subsequently canceled is subject to arrest under 85.01, Stats. 1931. 22 Atty. Gen. 123.

CHAPTER 342.

Vehicle Title and Anti-Theft Law.

342.01 History: 1957 c. 260; Stats. 1957 s. 342.01.

342.02 History: 1965 c. 485; Stats. 1965 s. 342.02.

342.05 History: 1957 c. 260; Stats. 1957 s. 342.05; 1965 c. 485; 1969 c. 500 s. 30 (3) (i).

Legislative Council Note, 1957: This section is largely a statement of present practice. There is nothing in the present law which clearly states when a certificate of title is required, though s. 85.01 (3) seems to direct the department to issue a certificate of title whenever it registers a vehicle. In practice, a certificate of title is issued upon an owner's first registration of a vehicle and eligibility for a certificate of title is considered a prerequisite to such first registration. The owner is not required to apply for and obtain a new certificate whenever he renews the registration of the vehicle. This procedure is entirely proper, for a certificate of title serves an entirely different purpose than the certificate of registration. The certificate of title is evidence of the ownership of the vehicle and there should be at least a strong presumption that once a person has proved his ownership of a vehicle and obtained a certificate of title, his ownership continues past the end of the registration year unless the department is notified to the contrary. The certificate of registration, on the other hand, is evidence of the payment of the annual registration fee and obviously should be reissued upon each annual payment of such fee.

Subsection (1) states the conditions under which the owner of a vehicle subject to registration in this state must apply for a certificate of title. The duties of a person who has newly acquired a vehicle are set forth in s. 342.19. The most common example of the application of sub. (1) (b) occurs when a person owning a vehicle moves to this state from another state.

Subsections (2) and (3) state when a certificate of title is a prerequisite to registration. Section 341.10 (3) directs the department to refuse registration if a certificate of title is a prerequisite and the applicant is not

eligible for a certificate. Section 342.11 states the grounds on which the department will refuse issuance of a certificate of title.

No statutes at present authorize registration without a certificate of title, but there always is the possibility that some may be enacted in the future. Subsection (3) covers that contingency. It is true that the law provides that a dealer need not apply for certificates of title for vehicles in stock, but in such a case it is the dealer who is registered rather than the individual vehicles he has in stock. There presently is only one situation in which the law authorizes registration in the name of a person other than the owner. That is a registration of a motor truck or truck tractor by a lessee who holds operating authority from the state public service commission.

The penalty in sub. (4) is based upon s. 85.01 (8) (e). The maximum fine has been reduced from \$500 to \$200 so as to conform to other penalties used regularly in this revision of the law. The scope of the offense has been reduced by requiring that a person other than the owner who operates a vehicle for which a certificate of title has not been issued or applied for must know that the certificate had not been issued or applied for. The matter of the application or issuance of a certificate of title is peculiarly within the knowledge of the owner, so proof of knowledge should not be necessary in his case, but it would often be unfair to penalize other persons without proof of knowledge.

The last sentence of sub. (4) is new. It supplies a desirable clarification of the law regarding the making of applications. [Bill 99-S]

342.06 History: 1957 c. 260; Stats. 1957 s. 342.06; 1965 c. 339, 485; 1969 c. 500 s. 30 (3) (i).

The function of the administrator of the division of motor vehicles to issue a certificate of title after an involuntary transfer, when compliance is had with the applicable statutes (342.06 (1), 342.11 (3), 342.17 (1), and 342.18 (2), Stats. 1967), is purely ministerial. *Walter Laev, Inc. v. Karns*, 40 W (2d) 114, 161 NW (2d) 227.

342.07 History: 1957 c. 260; Stats. 1957 s. 342.07.

342.08 History: 1957 c. 260; Stats. 1957 s. 342.08; 1969 c. 500 s. 30 (3) (i).

Legislative Council Note, 1957: This section is a revision of the next to the last sentence of s. 85.01 (8) (d) so as to bring it into conformity with practice. Experience has shown that it is only in the case of vehicles last previously registered in another jurisdiction that there is much chance of the vehicle being a stolen vehicle. The provision of the present law stating that records more than 5 years old may be destroyed has been dropped on the ground that it has been superseded by s. 44.08 (3). [Bill 99-S]

342.09 History: 1957 c. 260; Stats. 1957 s. 342.09; 1969 c. 500 s. 30 (3) (i).

342.10 History: 1957 c. 260; Stats. 1957 s. 342.10; 1965 c. 485; 1969 c. 500 s. 30 (3) (i).

A conditional seller who has properly filed

his contract under the uniform conditional sales act is not required to have a reference to the contract put on the certificate of title in order to perfect his lien. *Commercial Credit Corp. v. Schneider*, 265 W 264, 61 NW (2d) 499.

342.11 History: 1957 c. 260; Stats. 1957 s. 342.11; 1969 c. 500 s. 30 (3) (i).

Legislative Council Note, 1957: This section is largely new but states powers which the department must necessarily have by implication. For example, the primary purpose of a vehicle title law is to prevent fraud in connection with the ownership and transfer of ownership of motor vehicles and the purpose of the law obviously would be defeated if the department were to issue a certificate of title showing someone other than the true owner to be the owner of the vehicle. Similarly, the department would be condoning fraud if it were to issue a certificate of title upon a fraudulent application. It seems clear, therefore, that subs. (1) and (2) merely are express statements of powers which the department must have by implication in any event. Subsection (3) covers a number of specific provisions of the present law. For example, the present law provides that the department shall refuse issuance of a certificate of title if the application does not give the owner's address (s. 85.01 (2)) or if the application for a new vehicle is not signed by an enfranchised new car dealer (s. 85.01 (3)). [Bill 99-S]

342.12 History: 1965 c. 485; Stats. 1965 s. 342.12; 1967 c. 92 s. 22; 1969 c. 500 s. 30 (3) (i).

342.13 History: 1965 c. 485; Stats. 1965 s. 342.13; 1969 c. 500 s. 30 (3) (i).

342.14 History: 1965 c. 485; Stats. 1965 s. 342.14; 1967 c. 110; 1969 c. 500 s. 30 (3) (i).

342.15 History: 1965 c. 485; Stats. 1965 s. 342.15; 1969 c. 500 s. 30 (3) (i).

342.16 History: 1965 c. 485; Stats. 1965 s. 342.16; 1969 c. 500 s. 30 (3) (i).

342.17 History: 1965 c. 485; Stats. 1965 s. 342.17; 1969 c. 500 s. 30 (3) (i).

342.18 History: 1965 c. 485; Stats. 1965 s. 342.18; 1967 c. 92 s. 22; 1969 c. 329; 1969 c. 500 s. 30 (3) (i).

342.19 History: 1965 c. 485; Stats. 1965 s. 342.19; 1969 c. 329; 1969 c. 500 s. 30 (3) (i).

342.19 (2), Stats. 1963, must be construed with the uniform commercial code. *Mattek v. Malofsky*, 42 W (2d) 16, 165 NW (2d) 406.

342.20 History: 1965 c. 485; Stats. 1965 s. 342.20; 1969 c. 500 s. 30 (3) (i).

342.21 History: 1965 c. 485; Stats. 1965 s. 342.21; 1969 c. 500 s. 30 (3) (i).

342.22 History: 1965 c. 485; Stats. 1965 s. 342.22; 1969 c. 329; 1969 c. 500 s. 30 (3) (i).

342.23 History: 1965 c. 485; Stats. 1965 s. 342.23.

342.24 History: 1965 c. 485; Stats. 1965 s. 342.24.

342.25 History: 1965 c. 485; Stats. 1965 s. 342.25; 1969 c. 500 s. 30 (3) (i).

342.255 History: 1963 c. 515 s. 1; Stats. 1963 s. 342.26; Stats. 1965 s. 342.255; 1969 c. 500 s. 30 (3) (i).

342.26 History: 1965 c. 485; Stats. 1965 s. 342.26; 1969 c. 500 s. 30 (3) (i).

342.281 History: 1965 c. 485; Stats. 1965 s. 342.281; 1969 c. 500 s. 30 (3) (i).

342.282 History: 1965 c. 485; Stats. 1965 s. 342.282; 1969 c. 500 s. 30 (3) (i).

342.283 History: 1965 c. 485; Stats. 1965 s. 342.283; 1969 c. 500 s. 30 (3) (i).

342.284 History: 1965 c. 485; Stats. 1965 s. 342.284.

342.285 History: 1965 c. 485; Stats. 1965 s. 342.285; 1969 c. 500 s. 30 (3) (i).

342.30 History: 1957 c. 260; Stats. 1957 s. 342.30; 1969 c. 500 s. 30 (3) (i).

Legislative Council Note, 1957: Subsections (1) and (2) restate present s. 85.01 (8) (b) with the following changes: (a) The requirement that the identification number be stamped upon the rear axle of a trailer or semitrailer has been deleted. This provision creates problems particularly in the case of mobile homes where it is a fairly common practice for the manufacturer or dealer to repurchase the axle and wheels if the purchaser does not wish to keep them. Moreover, the identification number stamped on the frame should be sufficient identification. (b) The reference to stamping or welding the identification number to the body, if the vehicle is a 1955 or later model, is new. Starting with the 1955 models, manufacturers discontinued the use of engine numbers and instead are using a single identification number. (c) The requirement in the present law that the stamping or welding of the new number be done under the supervision of a "sheriff, deputy sheriff or police officer" was changed to read "peace officer." (d) The requirement that the identification number be defaced from the block of an engine which has been removed or replaced was dropped. It was considered to be better policy to have the number remain on the removed engine block to identify it in case it is again inserted in a vehicle.

Subsection (3) is based upon the "any other violation" provision of s. 85.01 (8) (e). As in other places in this chapter, the maximum fine has been reduced from \$500 to \$200. [Bill 99-S]

342.31 History: 1957 c. 260; Stats. 1957 s. 342.31; 1969 c. 500 s. 30 (3) (i).

342.32 History: 1957 c. 260; Stats. 1957 s. 342.32; 1969 c. 500 s. 30 (3) (i).

342.33 History: 1957 c. 260; Stats. 1957 s. 342.33; 1969 c. 500 s. 30 (3) (i).

Legislative Council Note, 1957: This section is based upon present s. 85.04 (2) and (5). This section is broader than the present law in 2 respects: (1) The present law applies

only to sale of a vehicle "in this state to any resident thereof." The quoted phrase was dropped. Fraudulent sales should not go unpunished merely because the victim happens to be a resident of another state. (2) The provision requiring the certificate of title to be exhibited to the vendee before the sale is consummated is new. The present law fails to accomplish its purpose of preventing the defrauding of purchasers of motor vehicles previously used as taxicabs because the seller who is intent on misleading the purchaser can complete the sale before showing the purchaser the stamped certificate of title.

The present law is broader than the new provision in one respect. It imposes criminal liability upon "every officer, agent or employe of any person, firm or corporation" who violates the law. Literally interpreted, it means that every employe of a corporation is guilty if one employe of the corporation violates the law. This goes far beyond general principles of criminal liability and it is very doubtful that it serves any good purpose. [Bill 99-S]

Sale of an automobile, which the seller knows was formerly used as a taxicab, without making sure that the certificate of title is stamped, is a violation, even though the seller does not know that the certificate has not been stamped. 37 Atty. Gen. 461.

Motor vehicles leased by drive-yourself companies are not vehicles "previously licensed and used as a taxicab or for public transportation." 37 Atty. Gen. 495.

342.34 History: 1957 c. 260; Stats. 1957 s. 342.34; 1969 c. 500 s. 30 (3) (i).

CHAPTER 343.

Operators' Licenses.

On exercises of police power and exercises of taxing power see notes to sec. 1, art. I.

343.01 History: 1957 c. 260, 551, 663, 684; Stats. 1957 s. 343.01; 1959 c. 49, 52, 107, 183, 660; 1961 c. 662; 1969 c. 412.

Legislative Council Note, 1957: Among the definitions in s. 340.01 which are pertinent in this chapter are "commissioner," "department," "hours of darkness," "local ordinance which is in conformity therewith," "motor vehicle," "operating privilege," "nonresident," "school bus," "traffic officer" and "vehicle."

The definition of "vehicle" in s. 340.01 differs from the definition in the present law in that streetcars and trolley busses are included. This means that operators of those vehicles will be required to have operators' licenses.

The definition of "operating privilege" in s. 340.01 is new and will result in a substantial saving in the number of words required to express concepts relating to revocation, suspension and cancellation without resulting in a change in the substance of the law.

The term "license" has been defined to include all types of licenses issued under this chapter, including instruction permits. The present law is not clear on this point.

The definition of "conviction" has been clarified. The present statutes state that conviction means a final conviction but this has