



THE ATTORNEY GENERAL
OF TEXAS

Grover Sellers

~~JOHN PENNINGTON~~
ATTORNEY GENERAL

AUSTIN 11, TEXAS

Hon. Clifford S. Roe
County Attorney
Panola County
Carthage, Texas

Opinion No. O-6885
Re: Registration of out of State
passenger automobiles in Texas.

Dear Sir:

We quote the following material parts of your letter of October 19, 1945, requesting an opinion of this department:

". . . We are located near the Louisiana state line and license plates are much cheaper in Louisiana. Also many new people are coming to Carthage from various places due to the gas boom here. As a consequence, there are numerous out of state license plates seen daily, most of them however, are Louisiana license plates.

"Some of the new people work here and stay at Carthage during the week and go to Louisiana on the week end or on occasional trips while others have moved in and brought their families with them. However, when most of these people are questioned, they say that they are not a resident of Texas and that they are only working here temporary, however, many of these people have lived here for months and are wearing out our roads and bridges, but do not license their cars in Texas. . . .

"If possible, I would like to know the following questions.

"(1). When a person moves his family to Panola County, how long does he have before required to register in Texas?

"(2). If a man lives in Panola County, Texas the greater portion of the time working and his family resides out of the state, does he have to

"(3). If a man works for a company who owns leases and property in Panola County, Texas, but does not have their main office in the state and said employee drives a Company car registered in Louisiana and goes back and forth at night, does this car have to be registered in Texas?"

Article 6675a-2, Vernon's Annotated Statutes, in part provides:

"Every owner of a motor vehicle, trailer or semi-trailer used or to be used upon the public highways of this State shall apply each year to the State Highway Department through the County Tax Collector of the county in which he resides for the registration of each such vehicle owned or controlled by him for the ensuing or current calendar year or unexpired portion thereof; . . ."

Article 827b of the Penal Code of Texas, comprising six sections, pertains to non-resident registration of motor vehicles registered in states outside of Texas. The material sections or portions thereof provide:

"1. . . .

"'Motor Vehicle' means every vehicle as herein defined which is self-propelled.

"'Passenger Car' means any motor vehicle other than a motorcycle or a bus as defined in this Act designed or used primarily for the transportation of persons.

"'Owner' means any person who holds a legal title of a motor vehicle or who has the legal right of possession thereof or the legal right of control of said vehicle.

"'Occasional Trip' means not to exceed five trips into this State during any calendar month nor to exceed five days on any one trip.

"'Non-resident' means every resident of a state or country other than the State of Texas whose sojourn in this State, or whose occupation, or place of abode, or business in this State, if any, covers a total period of not more than one hundred and twenty days in the calendar year.

"Sec. 2. A non-resident owner of a motor vehicle, trailer or semi-trailer which has been duly registered for the current year in the State or country of which the owner is a resident and in accordance with the laws thereof, may, in lieu of registering such vehicle as otherwise required by law, apply to the State Highway Department through a County Tax Collector for the registration thereof as provided by law, except that the privileges granted as otherwise provided for in this Act shall not apply to any motor vehicle, trailer, or semi-trailer operated within this State for the transportation of persons or property for compensation or hire. . . .

"Sec. 3. The non-resident owner or operator of any passenger car shall within twenty-five days after commencing to operate such vehicle, or causing or permitting it to be operated within this State apply to the Department, through any County Tax Collector, for the temporary registration thereof upon the appropriate official form stating therein the name and home address of the owner and the temporary address, if any, of the owner or operator while within this State, . . .

"Sec. 4. The County Tax Collector shall file each application received, and issue to the owner a temporary registration certificate of distinctive form to be furnished by the Department containing the date it is issued, a brief description of the vehicle and a statement that the owner has procured temporary registration of such vehicle as a non-resident. Said certificate shall entitle the owner or operator of said vehicle to operate it in this State for a period not exceeding one hundred and twenty days from date of issuance of said certificate.

"Sec. 5. . . . Nothing in this Act shall prevent a non-resident owner of a motor vehicle from operating at will such vehicle in this State for the sole purpose of marketing farm products raised exclusively by him, nor a resident of an adjoining State or country from operating a privately owned and duly registered vehicle, not operated for hire in this State at will, for the purpose of going to and from his place of regular employment and the making of trips for the purpose of purchasing goods, wares and

merchandise. And provided, further, that any non-resident owner of a privately owned motor vehicle may be permitted to make an occasional trip into this State with such vehicle under the privileges of this Act without obtaining such temporary registration certificate. Any person violating any provision of this Section shall be deemed guilty of a misdemeanor; and upon conviction thereof shall be fined in any sum not exceeding Twenty-five (\$25.00) Dollars.

"Sec. 6. If any person shall operate any such vehicle or any owner thereof shall operate or permit to be operated, any such vehicle within this State for a period of more than twenty-five days without applying for the temporary registration thereof, as herein prescribed, unless otherwise provided for in this Act, he shall be deemed guilty of a misdemeanor, and upon conviction, shall be fined in any sum not exceeding Twenty-five (\$25.00) Dollars. If any person shall operate any such vehicle or if any owner thereof shall operate or permit to be operated any such vehicle within this State after the expiration date of any certificate issued for such vehicle under the provisions of this Act without registering the vehicle under the laws governing the registration of the vehicles by the residents of this State or without having displayed thereon license number plates duly assigned therefor under the provisions of said laws, he shall be deemed guilty of a misdemeanor and upon conviction, shall be fined in any sum not exceeding Twenty-five (\$25.00) Dollars."

We find no conflict in the statutes to which you refer in our consideration of your request. We cannot, however, answer your questions categorically, since each involves questions of both law and fact. From the facts presented, we must assume that you are concerned primarily with Texas registration by such passenger car "owners" other than temporary registration as provided under Section 4. We likewise assume that all of such "owners" maintain their domicile or legal residence in the adjoining State of Louisiana.

In our Opinion No. 0-1023 approved July 10, 1939, we held that the term "resident" for registration purposes, as used in Article 6675a-2, supra, means legal residence with this statute fixing the situs for registration purposes.

The above quoted provisions of Article 827b of the Penal Code are applicable to the owners of such foreign registered motor

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vehicles. Such owners under the provisions of Section 3 have twenty-five days before they are required to take out a temporary registration certificate provided for under Section 4.

In our Opinion No. 0-981 approved August 9, 1939, and in Opinion No. 0-1043 approved July 8, 1939, we held in effect that in the event such non-resident owner desires to remain in this State for a longer period than the additional 120 days authorized by such temporary permit, it is necessary for his vehicle to be duly registered in the State of Texas. In construing the statutes above referred to, we also held in Opinion No. 0-2050 approved in limited conference March 18, 1940, that the definition of "non-resident" above quoted, controls and such owner is considered a "resident" for registration purposes of the county where he remains in Texas exceeding the 120 day period during any calendar year.

The above quoted provisions of Section 5, Article 827b, do not require such motor vehicles, assuming they are duly registered in the State of Louisiana, to be registered where they meet the requirements of that section.

In answer to your questions, under the facts stated and assumed herein, it is our opinion that such "owners" of passenger cars defined in Art. 827b of the Penal Code and duly registered in an adjoining State have twenty-five days before they are required to register in Panola County for a temporary registration certificate. If the car "owner", legally in Texas under such temporary registration certificate, remains in Texas longer than the total period of 120 days in the calendar year, he is, at the end of such period, residing in a county of this State for registration purposes and such owner's vehicle is subject to registration in accordance with Art. 6675a-2, V.A.C.S. The passenger car of such "owner" residing in Louisiana, which meets the requirements of Sec. 5, Art. 827b of the Penal Code of being operated for the purpose of going to and from the owner's place of regular employment in Texas, is not required to be registered during such statutory defined operation.

Yours very truly,

ATTORNEY GENERAL OF TEXAS

By: /s/ Wm. J. R. King
Assistant

WmK:LJ:rt

APPROVED NOV. 7, 1945
/s/ CARLOS ASHLEY
FIRST ASSISTANT
ATTORNEY GENERAL

APPROVED
Opinion Committee

By: /s/ BWB
Chairman