

VEHICLE AND TRAFFIC LAW §§ 401, 410, 415; 15 NYCRR § 78.21(b).

Vehicle and Traffic Law § 415 does not authorize the use of dealer number plates on vehicles used to transport customers or pick up supplies, as such use does not constitute the "sale or demonstration" of the vehicle or fall within other permitted uses under the statute.

June 13, 1997

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Informal Opinion  
No. 97-27

Dear Mr. Emmett:

You ask whether a motor vehicle dealer violates Vehicle and Traffic Law § 415 when staff members drive dealership vehicles equipped with dealer number plates to transport customers from the dealership to other locations or to pick up parts from local stores. You indicate that some dealers in your county believe they are justified in using dealer plates in such a manner because the dealer-plated vehicles are held for sale or demonstration.

Section 415 of the Vehicle and Traffic Law provides for dealer registration and states that "[a] dealer or other person qualifying for limited use of motor vehicles" may receive one or more sets of dealer and transporter number plates. Vehicle and Traffic Law § 415(4). The statute also permits registered dealers to operate vehicles to the extent provided in section 415(8) with dealer plates instead of obtaining individual vehicle registration as required in sections 401 and 410. Id. Dealer number plates may be used for all of the purposes for which transporter plates may be used. Id., § 415(8). These include the

purpose of weighing, testing, dismantling, transporting or delivering the same, or for the purpose of moving such vehicles in connection with making installations thereon or improvements thereto, or the repossession or foreclosure thereof, or for the operation, for demonstration purposes, of any vehicle owned by a manufacturer, or for transporting or delivering the vehicle upon which the

plates are displayed and additional vehicles carried in whole or in part upon such vehicle. Id.

The statute also provides that dealer number plates

may be used for the operation of any vehicle owned or controlled by the registrant and held for sale or demonstration, except a vehicle rented to another, a vehicle used to transport passengers for hire, a vehicle commonly called a "tow truck" or "wrecker" and used by the dealer for such purposes, a vehicle equipped for the purpose of towing or pushing disabled or nonoperated vehicles or a commercial or suburban type vehicle used by the dealer for commercial purposes other than directly affecting the sale or demonstration of that particular vehicle. Id.

The Commissioner of Motor Vehicles is authorized to suspend or revoke or refuse to issue or renew the dealer registration of any dealer who uses or permits use of dealer plates contrary to law. Id., § 415(9)(b). The Commissioner also can suspend or revoke the dealer number plates if they are used contrary to law and may impose fines for violations. Id., § 415(10), (12).

In our view, the phrase "held for sale or demonstration" in section 415(8) is consistent with section 415(4), which authorizes issuance of dealer plates for "limited use". The Legislature obviously intended to regulate carefully the use of dealer plates so they would not inappropriately be substituted for individual registration of vehicles, which permits unlimited use. This intent is evident from the statutory scheme, including the enforcement provisions.

The Legislature's decision to list a number of express exceptions in the statute, which bar certain dealer vehicles from eligibility for dealer plates, arguably could be read to authorize all uses not listed. In our view, such a reading would be inconsistent with the legislative intent to issue dealer plates for limited use. We believe the statutory language should be construed as providing examples of prohibited uses.

There is no authority in the statute to use dealer number plates on vehicles engaged in running errands or performing the routine activities associated with a dealership's operation, and holding out such a vehicle as being available for sale or demonstration does not under the statute validate an otherwise inappropriate use of dealer number plates. People v Christensen

& Weiss, 250 App Div 470 (2d Dept 1937). In Christensen, the court read this statute's precursor, which similarly authorized use of dealer plates on vehicles "held for sale or demonstration" except those used primarily for towing or transporting property, for rental to another, or to transport passengers for hire, as prohibiting the use of such plates for any activity not directly related to the sale or demonstration of a vehicle.

Regulations promulgated by the Commissioner are consistent with this view. They state that "it is unlawful, among other things, to use dealer plates on vehicles owned by members of the dealer's family or employees, and on service cars". 15 NYCRR § 78.21(b). While "service cars" is not defined, it seems reasonable that it includes cars used by service departments to get parts and transport customers to their jobs or homes. The Department of Motor Vehicles has confirmed that this is the intended meaning.

If section 415 were to be construed as allowing a dealer, under the guise of holding a vehicle for sale or demonstration, to use that vehicle for services like transporting customers or picking up materials, dealer number plates could then be used for any conceivable purpose and for any length of time. This would not be consistent with the legislative intent to authorize the issuance of dealer plates for limited use in place of individual registration, which permits unlimited use of the registered vehicle.

We conclude that section 415 does not authorize the use of dealer number plates on vehicles used to transport customers or pick up supplies, as such use does not constitute the "sale or demonstration" of the vehicle as contemplated by Vehicle and Traffic Law § 415.

The Attorney General renders formal opinions only to officers and departments of State government. This perforce is an informal and unofficial expression of the views of this office.

Very truly yours,

SIOBHAN S. CRARY  
Assistant Attorney General