



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

December 18, 1997

The Honorable Steve Holzheuser  
Chair, Committee on Energy Resources  
Texas House of Representatives  
P.O. Box 2910  
Austin, Texas 78768-2910

Letter Opinion No. 97-114

Re: Whether V.T.C.S. article 6687-2(k) authorizes the Texas Department of Public Safety to seize motor vehicles from persons other than salvage vehicle dealers (ID# 39244)

Dear Representative Holzheuser:

You ask whether V.T.C.S. article 6687-2(k) authorizes the Texas Department of Public Safety to seize motor vehicles from persons other than salvage vehicle dealers. You state that subsection (k) "is used by the Department of Public Safety in their motor vehicle theft division to confiscate any motor vehicle in violation [of] this subsection." You have also received advice, however, that subsection (k) "only grants authority to seize, hold, and dispose of motor vehicles from salvage dealers." Given that the purpose of article 6687-2 is to regulate the salvage vehicle dealer industry and the legislative history of subsection (k) indicates that its purpose was to authorize peace officers to conduct warrantless searches and seizures of salvage vehicle dealers' property rather than to provide general authority to seize motor vehicles, we agree that subsection (k) authorizes the seizure of vehicles only from salvage vehicle dealers.

First, it is clear from article 6687-2 on its face that its purpose is to regulate the salvage vehicle dealer industry. Article 6687-2 sets forth numerous requirements applicable only to salvage vehicle dealers.<sup>1</sup> It requires a salvage vehicle dealer with an endorsement as a used vehicle parts dealer to obtain certain documentation before receiving a motor vehicle.<sup>2</sup> The statute also requires each salvage vehicle dealer to keep an inventory of each used component part purchased by or delivered to the dealer on a form prescribed by the Department of Transportation<sup>3</sup> and to allow

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<sup>1</sup>Article 6687-2(a)(1) defines the term "salvage vehicle dealer" by reference to article 6687-1a, which defines the term as follows: "Salvage vehicle dealer" means a person who is engaged in this state in the business of acquiring, selling, or otherwise dealing in salvage vehicles or vehicle parts of a type required to be covered by a salvage vehicle certificate of title or nonrepairable vehicle certificate of title under a license issued by the department that allows the holder of the license to acquire, sell, dismantle, repair, or otherwise deal in salvage vehicles." V.T.C.S. art. 6687-1a, § 1.01(17).

<sup>2</sup>*Id.* art. 6687-2(b).

<sup>3</sup>*Id.* art. 6687-2(c), (g), (h).

inspection of the dealer's records and premises by a peace officer at any reasonable time.<sup>4</sup> The provision about which you ask, subsection (k), follows these requirements and provides as follows:

A peace officer may seize, hold, and dispose of according to the Code of Criminal Procedure a motor vehicle or part thereof which has been stolen or which has been altered so as to remove, change, mutilate, or obliterate a permanent vehicle identification number, derivative number, motor number, serial number, or federal safety sticker.

When viewed in context with article 6687-2 as a whole, we believe that subsection (k) must be construed to apply only to property in the possession of a salvage vehicle dealer.

In addition, the legislative history of subsection (k) indicates that the legislature, in enacting provisions that are now subsections (f), (j), and (k), intended to authorize peace officers to conduct warrantless searches and seizures of salvage vehicle dealers' property rather than to authorize seizure of stolen motor vehicles in any context. Subsections (f), (j), and (k), originally enacted as subsections (e) and (f), were adopted in 1977 by the Sixty-fifth Legislature in Senate Bill 501. As enacted, they provided as follows:

(e) An automobile salvage dealer shall keep all records required to be kept by this article for one year . . . and he shall allow inspection of the records by a peace officer at any reasonable time. A peace officer may inspect the inventory on the premises of the automobile salvage dealer at any reasonable time in order to verify, check, or audit the records. An automobile salvage dealer shall allow and shall not interfere with a full and complete inspection by a peace officer of the inventory, premises, and records of the dealer.

(f) A peace officer may seize, hold, and dispose of according to the Code of Criminal Procedure a motor vehicle or part thereof which has been stolen or which has been altered so as to remove, change, mutilate, or obliterate a permanent vehicle identification number, derivative number, motor number, or serial number.

Act of May 19, 1977, 65th Leg., R.S., ch. 432, § 1, 1977 Tex. Gen. Laws 1142, 1142-43. Bill analyses of Senate Bill 501 indicate that the purpose of the bill was to regulate salvage vehicle dealers as an industry:

[Senate Bill] 501 provides for the regulation of the automobile salvage business by requiring removal of unexpired license plates from certain motor vehicles, by providing for inspection of salvage yard premises by peace

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<sup>4</sup>*Id.* art. 6687-2(f), (j).

officers and the seizure of stolen motor vehicles and parts, and by requiring complete records of purchases and sales of motor vehicles and parts by auto salvage dealers.

House Comm. on Business and Industry, Bill Analysis, S.B. 501, 65th Leg. (1977).

The legislative history of Senate Bill 501 also indicates, more specifically, that the purpose of subsections (e) and (f) was to “lift[] some (not all) Fourth Amendment (search and seizure) restrictions in much the same way as is done with pawn shops.” House Study Group, Bill Analysis, S.B. 501, 65th Leg. (1977). One bill analysis specifically references Attorney General Letter Advisory No. 134, which opined that legislation authorizing peace officers to inspect salvage vehicle dealer premises and inventories and to seize motor vehicles and motor vehicle parts without a warrant would probably be upheld by the courts, relying on case law permitting warrantless searches of “regulated industries.” Attorney General Letter Advisory No. 134 (1977). The bill analysis notes that the opinion

concludes that the provisions of the bill would most likely fall within the Supreme Court’s “regulated industry” exemption to Fourth Amendment search and seizure safeguards. The attorney general draws a parallel between this bill and similar laws regarding pawn shops, the liquor industry and a host of others itemized in the letter.

House Study Group, Bill Analysis, *supra*, at 2.

This bill analysis demonstrates that the legislature was aware of the constitutional limitations on warrantless searches and seizures, believed that warrantless searches and seizures were permissible in the narrow context of a regulated industry, and drafted Senate Bill 501 with these parameters specifically in mind. Based on this legislative history, we conclude that the legislature did not contemplate that the search and seizure provisions would be broadly applied but rather specifically intended the provisions to be limited in application to those in the regulated industry -- salvage vehicle dealers. We also note that the legislature’s decision to so limit the scope of the search and seizure provisions is validated by subsequent case law addressing the constitutionality of warrantless searches conducted under article 6687-2. Courts have upheld warrantless searches under article 6687-2 involving salvage dealers’ property, applying the “regulated industry” rationale. By contrast, courts have struck down warrantless searches under article 6687-2 in other contexts as beyond the purview of the statute and outside the regulated industry exception to the Fourth Amendment.<sup>5</sup>

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<sup>5</sup>Compare *State v. Clouse*, 839 S.W.2d 459, 462 (Tex. App.--Beaumont 1992, no pet.) (affirming trial court order suppressing evidence obtained in warrantless search of premises of person who was not motor vehicle salvage dealer under art. 6687-2) with *Robinson v. State*, 728 S.W.2d 858 (Tex. App.--Austin 1987, no pet.) (affirming trial court order admitting evidence obtained in warrantless search of premises owned by automobile salvage dealer licensed under

(continued...)

On the basis of our examination of article 6687-2 as a whole and the legislative history of subsections (f), (j), and (k), we conclude that subsection (k) does not authorize the seizure of motor vehicles from persons other than salvage vehicle dealers. Our conclusion is limited to article 6687-2(k) and in no way affects the authority of law enforcement agencies and officers to take custody of stolen motor vehicles under other law.

**S U M M A R Y**

Texas Civil Statutes article 6687-2, subsection (k), does not authorize the seizure of motor vehicles from persons other than salvage vehicle dealers. This construction of article 6687-2(k) does not affect the authority of law enforcement agencies and officers to take custody of stolen motor vehicles under other law.

Yours very truly,



Mary R. Crouter  
Assistant Attorney General  
Opinion Committee

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<sup>5</sup>(...continued)

art. 6687-2) ("those engaged in highly regulated businesses are aware of the government supervision and in effect consent to the restrictions by engaging in the business").