

the Mackinac Island State Park Commission can acquire an approved airport on park lands.

FRANK J. KELLEY,
Attorney General.

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MOTOR VEHICLES: Transfer of title.
SECRETARY OF STATE: Motor vehicles.

In the event of the death of an owner of one or more vehicles, the total value of which does not exceed \$1,500.00, and where there is no other property necessitating the procuring of letters of administration, or letters testamentary, the secretary of state shall furnish certificate of title to surviving husband or wife, or next of kin, when proper petition and affidavit is furnished to him.

No. 4167

June 17, 1964.

Senator Garland Lane
1204 N. Ballenger Highway
Flint 2, Michigan

You have written expressing concern over the validity of Section 236, as amended,¹ of the Michigan Vehicle Code, being Act 300, P.A. 1949. This section provides in part as follows:

“* * *. In event of the death of an owner of 1 or more vehicles whose total value does not exceed \$1,500.00, who does not leave other property necessitating procuring letters of administration or letters testamentary as required in section 50 of chapter 2 of Act No. 288 of the Public Acts of 1939, being section 702.50 of the Compiled Laws of 1948, the surviving husband or wife, or next of kin in the order named in section 51 of said chapter, may apply for a title, after first having furnished the secretary of state proper proof of the death of the registered owner, attaching thereto an affidavit setting forth the fact that the applicant is the surviving husband or wife, or next of kin, and upon proper petition the secretary of state shall furnish applicant with a certificate of title.”

Thus no estate need be probated under the circumstances covered by the section in order to perfect transfer of title to the vehicle.

Substantially the same language has been the subject of two prior opinions of the Attorney General. In 1947 the Attorney General construed² Section 3 of Act 46, P.A. 1921, as amended, known as the Motor Vehicle Title Act, which section was the predecessor of Section 236 now in question. The only substantial difference between the quoted language from Section 236 and the language construed in Section 3 relates to the dollar amount involved. The legislature has increased said amount from \$500.00 to

¹ C.L.S. 1961 § 257.236 and Act 72, P.A. 1962; M.S.A. 1963 Cum. Supp. § 9.1936.

² O.A.G. No. 573, Vol. 1947-48, p. 421.

\$1,500.00. The Attorney General's opinion stated that Section 3 made it mandatory upon the secretary of state to furnish applicant with a certificate of title after proper petition to him, accompanied by the required affidavit.

In 1949 the Attorney General decided³ that Act 288, P.A. 1939, as amended by Act 208, P.A. 1945, relating to the probating of small estates, did not repeal that portion of Section 3 of Act 46, P.A. 1921, as amended by Act 272, P.A. 1945, which related to the duty of the secretary of state in furnishing a certificate of title to a motor vehicle subsequent to the decease of its owner. That opinion stated in part at page 178:

"As to whether there exists a conflict between the provisions of the two referred to acts, the Attorney General is of the opinion that there is none. The later act by its expressed terms is only applicable when 'in event of the death of an owner of one or more motor vehicles, whose total value does not exceed \$500.00, who does not leave other property necessitating the procuring of letters of administration or letters testamentary as is required' by law.

"It is obvious that it was the intent of the Legislature, in instances where an intestate deceased leaves no other property necessitating probate proceedings, to dispense with the probating of his estate for the sole purpose of enabling the surviving husband or wife or next of kin of the deceased, to procure a certificate of title to a motor vehicle of the value of \$500.00 or less, the ownership of each vehicle under the circumstances having been determined by the Legislature to descend to the surviving husband or wife or next of kin."

I concur with the opinions of my predecessors.

It is the opinion of the Attorney General that in the event of the death of an owner of one or more vehicles, the total value of which does not exceed \$1,500.00, and where there is no other property necessitating the procuring of letters of administration or letters testamentary, the secretary of state shall furnish certificate of title to the surviving husband or wife, or next of kin, when proper petition and affidavit is furnished to him. If it is desirable that the transfer of title to a vehicle of a deceased person be perfected in probate court proceedings, the legislature will have to make such provision.

FRANK J. KELLEY,
Attorney General.

³ O.A.G. No. 931, Vol. 1949-50, p. 177.