# Is the Dealership or the Buyer the Owner of a Newly Sold Car for Liability Purposes?

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Just because a customer buys a car and drives the car off the dealership's lot doesn't necessarily mean that the dealership is off the hook for any accidents that may occur involving the car after the sale. In many instances, whether the dealership or the buyer is deemed to be the owner of the car for liability purposes is determined by state law.

Two recent cases involving different states' laws dealt with this issue. Here's what happened.

In a Kentucky case, Trevor Tarter bought a car from Tommy Owens Used Cars, LLC. At the time of purchase, Tarter was required to provide proof of insurance. Tarter signed a document titled "Agreement to Provide Physical Damage Insurance." The agreement included spaces for Tarter to list his contact information, information about the car, his insurance agent, and his insurance company. Tarter did not provide the names of the insurance company or the insurance agent.

Later, Sarah Holt was operating the car that Tarter bought when she was involved in an accident with Rhonda Wilson. Wilson sued Holt, Used Cars, and State Farm Mutual Automobile Insurance Company. The trial court dismissed State Farm from the lawsuit. Used Cars then moved for summary judgment, arguing that it was not liable for the accident because Tarter was the owner of the car at the time of the accident. Wilson argued that Tarter was not the owner of the car because Used Cars failed to comply with the requirements of Kentucky Revised Statutes § 186A.220, which requires dealerships to obtain proof of insurance from vehicle purchasers. The trial court granted summary judgment for Used Cars, concluding that it substantially complied with Section 186A.220. Wilson appealed.

The Court of Appeals of Kentucky reversed the trial court's decision. The appellate court found that Used Cars' failure to strictly comply with Section 186A.220 resulted in failure to validly transfer ownership of the car to Tarter. The appellate court noted that substantial compliance with the statute is not enough.

The appellate court relied on two prior cases decided by the Kentucky Supreme Court addressing the proof of insurance requirements in Section 186A.220. In a 2006 case, the state high court held that although "the statute does not expressly state that proof of insurance must be written, the term 'proof' clearly contemplates verification beyond mere assumption or knowledge. We find no legal or common[-]sense support for the assertion that knowledge or assumption of a fact constitutes proof of that fact." In a 2018 case, the state high court held that "the burden is on the dealer, when selling to a purchaser for use, to actively verify that the buyer has insurance before transferring possession of the vehicle." Where the dealership fails "to promptly comply with the

requirements of KRS 186A.220(5) in a transaction with a purchaser for use[, such failure] cannot be cured and the dealer may still be considered the 'owner' of the vehicle in question."

Although Tarter signed the agreement stating that he had an insurance policy covering the car, the appellate court found that Used Cars failed to obtain "verification beyond mere assumption or knowledge." The burden was on Used Cars to actively verify that Tarter had the insurance he said he had. According to the appellate court, the state high court cases imply that the dealership "must obtain first-hand verification of the existence of an insurance policy covering the car. The method of verification is immaterial, but these cases indicate that, although verification need not be written, the dealer must confirm the purchaser has a valid insurance policy covering the purchased car in some manner." Because Used Cars did not strictly comply with Section 186A.220 in relying on Tarter's signature on the agreement to provide insurance as proof that he actually had insurance, the appellate court concluded that the trial court erred in granting summary judgment for Used Cars.

In the other case, from Michigan, MaryLynn Titus sued Mikes Cars, LLC, and its owner for liability under Michigan's owner's liability statute, Michigan Compiled Laws § 257.401, among other claims. On January 8, 2018, Titus's vehicle was rear-ended by a vehicle driven by Ronald Benfield, who had just bought his vehicle from Mikes Cars. In the lawsuit Titus filed after the accident, the trial court granted summary judgment for Mikes Cars, and Titus appealed.

The Court of Appeals of Michigan affirmed the trial court's decision. The appellate court noted that there was conflicting evidence regarding whether the sales transaction between Benfield and Mikes Cars took place on January 8, 2018, or January 6, 2018. The salesperson from Mikes Cars testified that the sales transaction took place on January 6, but Benfield did not have proof of insurance at that time. Because Benfield had paid for the vehicle, the salesperson testified that he gave Benfield the keys and parked the vehicle in a neighboring store parking lot for Benfield to either pick up after he had secured insurance or have towed to another location. Benfield contended that the sales transaction took place on January 8 and that he took possession of the vehicle on that date. He testified that he had driven the vehicle only a few miles from the dealership when he hit Titus's vehicle.

Titus argued on appeal that there were genuine issues of material fact as to whether Mikes Cars maintained ownership of the vehicle at the time of the accident, thereby subjecting it to liability under MCL § 257.401. The appellate court disagreed. The appellate court found that the operative date for a title transfer under MCL § 257.233(9) is "the date of signature on either the application for title or the assignment of the certificate of title by the purchaser, transferee, or assignee." Even though there was conflicting evidence concerning some of the circumstances surrounding Benfield's purchase of the vehicle (such as when the sales transaction actually occurred), the appellate court concluded there was no genuine issue of material fact that the vehicle

was delivered to Benfield and he had signed the application for title before the January 8 accident. Because title to the vehicle had passed to Benfield before the accident, Benfield was the owner of the vehicle at the time of the accident, and Mikes Cars was not liable under MCL § 257.401.

State law generally provides the answer to who is deemed to be the owner of a newly purchased vehicle and what steps are necessary to effect a transfer of title. Make sure that you are familiar with your state's law and that you take the steps necessary to ensure that the buyer is deemed to be the owner of the car he or she just bought before the car leaves your lot.

*Wilson v. Holt*, 2021 Ky. App. Unpub. LEXIS 663 (Ky. App. November 19, 2021), and *Titus v. Auto-Owners Insurance Company*, 2021 Mich. App. LEXIS 6667 (Mich. App. November 23, 2021).

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