

**Automobiles—Motor Vehicles—Dealers in Motor Vehicles
—Registration—License—Sub-Dealer.**

A regularly licensed dealer in motor vehicles may sell in any county in the state; the proportionate share of the fee for his license going into the road fund of the county wherein his principal place of business is.

As far as a license is concerned no distinction is made between a dealer, sub-dealer or curb-stone broker.

March 30, 1917.

Hon. C. T. Stewart,
Secretary of State,
Helena, Montana,

Dear Sir:

You have submitted to me the following questions, concerning the registration of dealers in motor vehicles under House Bill No. 381:

1. Does a dealer have to operate in the county where his license is granted him, or can he sell anywhere in the state, or in as many counties as he may wish?

2. If a dealer is allowed to operate anywhere in what way are the road fund to be divided among the different counties?
3. Can a sub-dealer operate under the license of a direct dealer?
4. Is it necessary for curbsstone dealers to have a separate license from dealers at larger points?

In answer to your first question: Section 6, subdivision a, requires all motor vehicles to be registered and fixes the amount of fee for such registration. Section 5, subdivision b, provides that persons engaged in the business of selling motor vehicles may, instead of registering each vehicle handled, register as dealers by paying the license fee therein provided for. Persons engaged in the business of selling motor vehicles may, therefore, either register, in the manner provided by Section 6 subdivision a, each vehicle handled, or may register as dealers, in the latter case not being required to register each vehicle handled.

If a person engaged in this business, instead of registering as a dealer, elects to register each vehicle handled by him, there is nothing to prevent him from selling any such vehicles, registered by him, in any county in the state. He may be a resident of one county, carrying on and conducting his business in that county, and registering vehicles handled by him from that county, and sell such vehicles to persons living in any other county in the state. The only thing the law requires is that he shall register all vehicles handled by him.

If, instead of registering such vehicle handled by him, he elects to register as a dealer, he has exactly the same right to sell vehicles any place in the state, as he would have if, instead of registering as a dealer, he elected to register each vehicle handled by him.

It is, therefore, my opinion that a person registered as a dealer under subdivision b of Section 5, has the right to sell motor vehicles throughout the entire state if he so desires.

In answer to your second question, if a person engaged in the business of handling motor vehicles elects to register each vehicle handled by him, the registration fees should be credited to the county from which such vehicle is registered, and when any such vehicle is sold the license must be transferred as provided in Section 5, subdivision d, and the fee for transferring such license should be credited to the county in which the person purchasing such vehicle resides. If, however, the person engaged in such business registers as a dealer, the license fee should be credited to the county in which person resides and maintains his principal place of business. Upon a sale of a vehicle by a person registered as a dealer, such dealer is required, by Section 5, subdivision f, to collect the amount of the registration fee from the purchaser, forwarding the same to the registrar of motor vehicles with a report of such sale. This report will show the residence of the purchaser, and the amount of the registration fee should be credited to the county in which the purchaser resides.

In answer to your third and fourth questions, Section 5, subdivision b, provide that persons engaged in dealing in motor vehicles, in-

stead of registering each vehicle handled, may register as dealers. The language used is "Every person, firm, association or corporation dealing in motor vehicles * * *." This language is broad enough and it was evidently the intention of the legislature that it should include every person, firm, association or corporation engaged in this business.

The words "dealing in" and "dealer" have been defined as follows:

"To deal in a commodity is to negotiate or make bargains in respect to that commodity, to traffic therein as a buyer or seller, or otherwise engage in mutual intercourse, or transactions in respect thereto. The purpose being to accomplish a change from one to another of interest in or title to property."

Wilson v. Delaney, 113 N. W. 842.

"To deal in the selling of a certain thing is to traffic or trade in the selling of it; to make a business of it."

State v. Martin, 5 Mo. 361.

"A dealer is one who makes successive sales as a business."

Overall v. Bezeau, 37 Mich. 506;

Peitz v. State, (Wis.) 32 N. W. 763.

If one person has an agency for the sale of certain motor vehicles, his agency covering a certain territory, he is a "dealer". If he appoints sub-agents, authorizing them to sell such vehicles they are also "dealers" within the meaning of the word "dealer" as used in the motor vehicle law, and each sub-agent as a dealer is required either to register each vehicle handled by him, or obtain a license as a "dealer". Otherwise one person might obtain an agency for the entire state and appoint a hundred sub-agents throughout the state, only the general agent being required to register motor vehicles handled by him, or pay a dealer's license.

I am, therefore, of the opinion that every person engaged in the business of selling motor vehicles, whether as a general agent or as a sub-agent, is a dealer in motor vehicles, and must either register each car sold or pay the dealer's license required by subdivision b of Section 5.

Respectfully,

S. C. FORD,

Attorney General.