

Automobile Dealer—Automobiles—License.

A person demonstrating his own automobile and filling orders from and through a licensed dealer in another city is not required to take out a dealer's license.

A. O. Torrison, Esq.,
County Attorney,
Cut Bank, Montana.

My dear Mr. Torrison:

You have requested my opinion as to whether a person should pay a motor vehicle dealer's license fee of \$75.00 under the following statement of facts:

"A person purchased of Wellens Motors of Great Falls a Star touring car, buying same, part cash, and balance in 90 days. Mr. Wellens has agreed to pay the purchaser commissions on any sales he can make, delivery to be made from his Great Falls stock, retail sales orders to be signed by buyers, said sales orders being to Wellens Motors, and when sale is made, conditional sales contract is also to Wellens Motors, they handling all paper, financing the deals through the usual channels, and remitting commission on receipt of initial cash payment."

The term "dealer" is defined by Section 1763, Revised Codes of 1921, to include "every person who is engaged in the business of buying, selling, or exchanging motor vehicles in this state, whether at an established place of business or otherwise, but shall not include agents or salesmen of manufacturers or distributors selling motor vehicles to or establishing selling or distributing agencies therefor with dealers registered in this state, or salesmen, mechanics, or demonstrators regularly employed by registered dealers in this state."

Subdivision 3 of Section 1760, Revised Codes of 1921, provides:

“Registration fees shall be paid to the Registrar of Motor Vehicles upon registration or re-registration * * * as follows:
* * *

“3. A dealer who shall maintain more than one place of business or who shall maintain any branch establishment or establishments, must register and pay a registration fee for each such place of business or establishment.”

Demonstrating by the purchaser with his own car at his residence in Cut Bank is not the maintaining of a second place of business by the Wellens Motors of Great Falls. The purchaser would merely be a salesman or demonstrator for the Wellens Motors under the facts stated in your letter.

It is, therefore, my opinion that the person referred to is not required to register as a “dealer” in motor vehicles.

Very truly yours,

WELLINGTON D. RANKIN,
Attorney General.