

**Automobiles—Dealers—Motor Vehicles—License—Salesmen.**

Where a dealer selling automobiles maintains but one establishment and sends out agents or salesmen to cover the surrounding territory who do not maintain any other place of business, such salesmen or agents may operate under the license of the dealer and are not required to obtain separate licenses.

Geo. A. Westover, Esq.,  
County Attorney,  
Columbus, Montana.

My dear Mr. Westover:

You have submitted to this office the following statement of facts and requested my opinion thereon:

"The Goan Motor Company of Billings, Montana, automobile dealers, with a fixed place of business at Billings, Montana, operating under a motor dealer's license for this year, employ salesmen who work out of the Billings establishment and sell automobiles in various counties, including Stillwater county, the salesman receiving as compensation for his sales certain percentage of the sale, the motor company furnishing all expenses incidental to operation thereof. The sales made by the salesmen are closed at the Billings establishment by the Goan Motor Company, and the salesmen paid a pro rata, plus a nominal wage. \* \* \* The question now is, should the salesman operate under a dealer's license issued to him, or may he legally operate as above outlined under the dealer's license of the Goan Motor Company?"

Subdivision 3 of Section 1760, Revised Codes of 1921, as amended by Chapter 107, Session Laws of 1923, provides as follows:

"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."

"Place of business," as used in a statute providing that if partners have places of business in two or more towns they may be taxed for the proportion of property employed in such towns, means a place where the business is carried on under their own control and on their own account.

Little v. City of Cambridge, 63 Mass. 298-301.

A branch bank has been defined as a branch establishment in a town or city other than that in which the principal office is located.

State ex rel. Flumerfelt v. Engle, 96 Pac. 1045-1046.

There is nothing in the statement of facts showing that more than one place of business or establishment is being maintained by the Goan Motor Company. A person is not maintaining more than one place of business, or a branch establishment, when he works, from a single location, the surrounding territory by agents or salesmen who do not maintain any establishment in the territory which they cover, but merely solicit and make sales and close all sales at the established office. Section 1763, R. C. M. 1921, provides as follows:

“The term dealer \* \* \* 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.”

It is, therefore, my opinion that each salesman may operate under the dealer's license of the Goan Motor Company.

Very truly yours,

WELLINGTON D. RANKIN,  
Attorney General.