

Automobiles—Motor Vehicles—Dealers—Licenses.

Where a dealer in motor vehicles maintains an established place of business in one town and has a salesman or branch dealer located in another town and maintaining a separate place of business in the latter town, a separate license for such branch dealer must be procured under section 1760 R. C. M. 1921.

H. L. Wolfe, Esq.,
County Attorney,
Malta, Montana.

September 14, 1926.

My dear Mr. Wolfe:

You have submitted a statement of facts relative to an automobile dealer and request my opinion as to the liability of the dealer for the payment of a license fee under section 1760 of the code. As I understand it, the essential facts are as follows:

A dealer in motor vehicles maintains an established place of business at Malta in Phillips county, and has taken out a motor vehicle dealer's license number D-195. This dealer has a salesman or branch dealer at Saco in Phillips county who purports to operate under the above license, but who has a place of business at the Saco light plant and advertises cars for sale at said place of business. You desire my opinion as to whether said salesman or branch dealer (the terminology by which he is referred to would seem to me to be immaterial) is liable for the payment of a dealer's license.

It is my opinion that he is so liable and I see nothing in the opinion of former attorney general Rankin to which you refer (Vol. 10 Opinions of Attorney General, page 342) that would lead one to a contrary conclusion.

Section 1760 of the code as amended by chapter 107, laws of 1923, provides for the payment of a license by "dealers in motor vehicles," and section 3 of said act reads 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."

In the opinion above referred to the meaning of the terms "place of business" and "branch establishment" was pointed out and the conclusion was reached that where a licensed dealer has agents or salesmen covering certain territory but who do not maintain any other place of business, such agents or salesmen are not required to obtain separate licenses. On the state of facts contained in your letter it seems clear that the salesman or branch dealer at Saco is maintaining a separate place of business at the Saco light plant, at which place of business he sells, or offers for sale, automobiles.

It is, therefore, my opinion that if the man at Saco desires to operate under the license issued to the dealer at Malta, the latter must take out another license. If the man at Saco does not claim to operate under the Malta dealer's license, he must, of course, procure a license of his own.

Very truly yours,

L. A. FOOT,

Attorney General.