

**Opinion No. 509**

**Motor Vehicles—Licenses—Dealer's Licenses—Cancellation of License for Improper Use—Penalty for Improper Use of Dealer's License.**

HELD: It is the duty of the Registrar of Motor Vehicles to cancel a dealer's license which was obtained by misrepresentation or which is used otherwise than in the usual, ordinary conduct of his business as a dealer.

The statutory penalty of \$25 for mis-

use of dealer's license, or for operating as a dealer without a dealer's license, may be enforced in successive actions as long as the dealer persists in such offenses.

April 12, 1934.

You request an opinion of this office on the following matter:

"Is it prima facie evidence, that an auto dealer, when he applies for a dealer's license, makes him a dealer in fact? Under a law passed at the recent extra session, such dealer in his application is required to give certain facts regarding the cars he handles and other information.

"We have every reason to believe that quite a few firms, such as garages, etc., that do not retail new or used cars, secure these dealer's licenses and use them on their wreckers, personal cars, etc., and that in reality, an individual license should be obtained for each of these cars.

"Then again, there is the case of an actual dealer who does not take out a dealer license. Is there any way we can compel such firm to take out the proper license?"

Section 1759, R. C. M. 1921, as last amended by Chapter 158, Laws of 1933, subdivision 1 of section 1, requires all persons driving any motor vehicle on the highways of the state to obtain a license. This applies to a dealer's car used for private purposes as well as to all other operators of motor vehicles.

Subdivision 2 of the same section requires all dealers to be registered as dealers and in any application for a dealer's license the applicant must furnish the Registrar of Motor Vehicles such information as the Registrar may call for. Applications are submitted on forms furnished by the Registrar, and in such forms the Registrar may call for any information necessary to enable him to determine the purpose for which the license is used. The Registrar may have direct questions in the application form that, if deliberately misrepresented, may be used as a basis for cancelling such dealer's license and maintaining an action for misdemeanor. The statute provides that "upon its being made to appear to the satisfaction of the Registrar that any such dealer has used his dealer's license otherwise than in the usual, ordinary conduct of his

business, the registrar may revoke such dealer's license."

If furnished with satisfactory information showing a violation of the law under the circumstances given in either of your two first propositions, the Registrar has the power, and it would be his duty, to cancel the dealer's license. In addition the dealer is subject to a fine of not more than \$25.00.

In regard to your third proposition, one shown to be a dealer and operating without a dealer's license may be fined not to exceed \$25.00. (Section 2 of Chapter 158, referred to heretofore.) This is not a heavy penalty, but it could be made so by enforcing the law and penalizing the dealer in one action after another if he persisted and refused to comply with the law.