

Opinion No. 220.**Motor Vehicles—Licenses—Dealers—
Non-Resident Dealers—Interstate
Commerce.**

HELD: A non-resident automobile dealer cannot be required to pay a dealer's license before being permitted to solicit business from residents of Montana.

December 27, 1935

Mr. A. B. Middleton
Registrar of Motor Vehicles
Deer Lodge, Montana

You have submitted the following:

"Can a person, firm or corporation who are residents of a foreign state enter this state, either themselves or by an agent, to solicit business from the residents of Montana for the purchase of automobiles which would be delivered to the residents of this state? The picture is as follows:

"A party living in Williston, North Dakota, which is some thirty odd miles from the Montana line, has been and is intending to again operate in 1936 as an automobile dealer in this state but retains his

place of business in Williston. The different automobile dealers in the northeastern part of the state object to an outside party contacting the automobile owners of this state and endeavoring to sell automobiles without the payment of any license fees."

On August 8, 1933, in an opinion to George L. Knight, Chief, Division of Horticulture (Op. 294, Vol. 15), this office rendered an opinion concerning a similar situation, in which we held that a state could not impose a tax or license fee upon non-residents. The reasons given and the authorities cited therein are fully applicable to the question you have propounded. I am, therefore, of the opinion that a non-resident automobile dealer cannot be required to pay a dealer's license before being permitted to solicit business from residents of Montana. The Act is not broad enough to require such license and if it did, it would be unconstitutional and void in that it would be an attempt to impose a restriction upon, or regulate interstate commerce in violation of the commerce clause of the Federal Constitution. (See also Volume 14, Opinions of the Attorney General, page 275.)