

**Opinion No. 171.****Registrar of Motor Vehicles—Used Car Dealers—Licenses.**

Held: That a dealer who sells only reconditioned automobile motors is not a dealer in used motor vehicles, but is a dealer in automobile accessories.

January 28, 1944.

Mr. John E. Henry  
Registrar of Motor Vehicles  
Deer Lodge, Montana

Dear Mr. Henry:

You have requested my opinion concerning the following:

Replacement motors for automobiles are sold by companies which do not sell complete automobiles. You ask whether such companies are required to register under the Montana law as dealers in used motor vehicles.

In answering your question, it is necessary to examine the definitions set out in Section 1763, Revised Codes of Montana, 1935, as amended by Chapter 88, Laws of 1943, which provides in part:

"The words 'motor vehicles' shall include all vehicles which are self-propelled, except road rollers, traction engines and railroad cars, farm tractors, and motor cars run upon stationary rails or tracks. . . .

"The term 'used motor vehicle' shall include any motor vehicle which has been sold, bargained, exchanged,

given away or title transferred from the person who first took title to it from the manufacturer or importer, dealer or agent of the manufacturer or importer, and so used as to have become what is commonly known as 'second-hand' within the ordinary meaning thereof."

It is apparent from the above quoted definitions that a "motor vehicle" and a "used motor vehicle" must be self-propelled or capable of travelling on wheels on its own power. An automobile motor without the other necessary parts of an automobile is not, under the definitions, a motor vehicle.

Section 1763.6, Revised Codes of Montana, 1935, provides in part:

"That after the first day of January, nineteen hundred twenty-six, it shall be unlawful for any person to carry on or conduct in this state the business of buying, selling or dealing in used vehicles or parts thereof, unless and until he shall have received a license from the registrar of motor vehicles authorizing the carrying on or conducting of such business."

The addition of the phrase "or parts thereof" in Section 1763.6 broadens the meaning of "used vehicles" if by the use of the phrase it includes all dealers who deal in parts of used cars. To so interpret would mean that every dealer in used tires would be a dealer in used vehicles and would be required to secure license. Such an interpretation would, in my opinion, be contrary to the intent of the legislature.

The title of Chapter 113, Laws of 1925, stated in part:

"An act to Protect the Title of Motor Vehicles Within This State; . . . to Provide for the Regulation and Licensing of Certain Dealers in Used and Second Hand Vehicles as Herein Defined . . ."

The reference in the title to the definition of used and second hand vehicles as contained in the act indicates the scope of the regulation of dealers in used vehicles. In other words, if the dealer buys or sells anything less than a used vehicle capable of self-propulsion, he is not a dealer in used motor vehicles.

It is common practice for dealers to purchase used cars, dismantle the same and sell the parts thereof. Such a dealer

would be a second hand dealer as he bought complete motor vehicles. Section 1763.6 applies to dealers who buy complete second hand vehicles and sell them in parts.

The objection that no record is made of the changed motors is answered by Section 1763.7, Revised Codes of Montana, 1935, which provides a penalty for the sale of vehicles which have altered or changed motor numbers, and under the terms of this section, the registrar must be notified of a changed or altered engine number and as a result a record is made of the change in motors.

We must take the law as we find it; the legislature is the only department of our government that may correct or change the law if they so determine.

It is therefore my opinion that a dealer who sells only reconditioned automobile motors is not a dealer in used motor vehicles, but is a dealer in automobile accessories.

Sincerely yours,  
R. V. BOTTOMLY  
Attorney General