

**N.D.A.G. Letter to Maxson (May 16, 1988)**

May 16, 1988

Senator R. James Maxson  
District 41  
600 - 22nd Avenue NW  
Minot, ND 58701

Dear Senator Maxson:

Thank you for your letter of April 25, 1988, inquiring as to whether the word "dealer" as found in N.D.C.C. § 39-12-04(1)(b) includes a wholesale dealer.

N.D.C.C. § 39-12-04(1)(b) states, in part, as follows:

39-12-04. Width, height, and length limitations on vehicles --  
Exceptions. Vehicles operated on a highway in this state may not exceed  
the following width, height, or length limitations:

1. A total outside width, including load thereon, of eight feet, six inches [2.59 meters]. This limitation does not apply to:

...

- b. Implements of husbandry being moved by resident farmers, ranchers, dealers between sunrise and sunset. Furthermore, the limitation does not apply to implements of husbandry being moved between sunset and sunrise by resident farmers, ranchers, or dealers on public state, county, or township highway systems other than interstate highway systems.

(Emphasis supplied.)

The word "dealer" is defined under N.D.C.C. § 39-01-01(11) as follows:

39-01-01. Definitions. In this title, unless the context or subject matter otherwise requires:

11. "Dealer" means every person, partnership, or corporation engaged in the business of buying, selling, or exchanging motor vehicles, or who advertises, or holds himself out to the public as engaged in the buying, selling, or exchanging of motor vehicles, or who engages in the buying or motor

vehicles for resale. Any person, partnership, corporation, or association doing business in several cities or in several locations within a city must be considered a separate dealer in each such location.

A "motor vehicle" includes every self-propelled vehicle. N.D.C.C. § 39-01-01(38). An implement of husbandry means "every vehicle designed and adapted exclusively for agricultural, horticultural, or livestock raising operations or for lifting or carrying an implement of husbandry and in either case not subject to registration if used on the highway." N.D.C.C. § 39-01-01(26). Finally, a "vehicle" is "every device in, upon, or by which any person or property may be transported or driven upon a public highway." N.D.C.C. § 39-01-01(87).

Consequently, an implement of husbandry "dealer" under N.D.C.C. § 39-12-04(1)(b) is a person, partnership, or corporation engaged in the business of buying, selling, or exchanging self-propelled (and nonself-propelled) devices in, upon, or by which any person or property may be transported or driven upon a public highway, which are designed and adapted exclusively for agricultural, horticultural, or livestock raising operations or for lifting or carrying an implement of husbandry.

Given this definition of an implement of husbandry "dealer," an implement of husbandry "wholesale dealer" falls within its parameters. "Wholesale dealer" is not defined by N.D.C.C. title 39. In defining this phrase, we must turn to N.D.C.C. § 1-02-03.

1-02-03. Language -- How construed. Words and phrases must be construed according to the context and the rules of grammar and the approved usage of the language. Technical words and phrases and such others as have acquired a peculiar and appropriate meaning in law, or as are defined by statute, must be construed according to such peculiar and appropriate meaning or definition.

The words "wholesale dealer" is a technical word having acquired a peculiar and appropriate meaning in the law. A "wholesale dealer" is "one whose business is the selling of goods in gross or retail dealers, and not by the small quantity or parcel to consumers thereof." Black's Dictionary of Law, 132 (5th Ed. 1979). Thus, a "wholesale dealer" is a type of dealer just as a retail dealer, merchant, jobber, or middleman are types of dealers -- all buy to sell, not to keep, nor make to sell. *Id.* at 359.

Applying this definition, an implement of husbandry "wholesale dealer" is a person, partnership, or corporation engaged in the business of buying, selling, or exchanging to jobbers, merchants, and retailers, but not consumers, large quantities of self-propelled (and nonself-propelled) devices in, upon, or by which any person or property must be transported or driven upon a public highway, which are designed and adapted exclusively for agricultural, horticultural, or livestock raising operations or for lifting or carrying an implement of husbandry. Consequently, a "wholesaler dealer" is a "dealer" under N.D.C.C. § 39-12-04(1)(b).

Sincerely,

Nicholas J. Spaeth

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