

N.D.A.G. Letter to Larson (Aug. 2, 1985)

August 2, 1985

Mr. Bruce Larson, Registrar
Motor Vehicle Department
State Capitol Grounds
Bismarck, North Dakota 58505-0176

Dear Mr. Larson:

Thank you for your letter of July 18, 1985, in which you requested this office to review N.D.C.C. § 39-22-02 and to advise you on writing rules and regulations defining the use of dealer plates under N.D.C.C. §39-22-02.

In your letter you ask us to review N.D.C.C. §39-22-02, particularly the sentence, "such number plates may be used on any vehicle owned by the dealership and used in the direct functions of demonstrating, buying, or selling vehicles." I am assuming from your letter that you wish this office to interpret the terms "demonstrating," "buying," and "selling." These terms are not specifically defined in N.D.C.C. Title 39 which deals with motor vehicles.

The rule for interpreting the meaning of words in any statute is found at N.D.C.C. § 1-02-02. This statute provides as follows:

1-02-02. WORDS TO BE UNDERSTOOD IN THEIR ORDINARY SENSE.--Words used in any statute are to be understood in their ordinary sense, unless a contrary intention plainly appears, but any words explained in this code are to be understood as thus explained.

To determine the meanings of these words, we reviewed the definitions of these words as provided in the American Heritage Dictionary of the English language.

"Demonstrating" is defined as: 1. To prove or make manifest by reasoning or adducing evidence. 2. To describe or illustrate by experiment or practical application. 3. To manifest or reveal. 4. To display, operate, and explain (a product).

"Buying" is defined as: 1. To acquire in exchange for money or its equivalent; to purchase. 2. To be capable of purchasing. 3. To acquire by sacrifice, exchange, or trade.

"Selling" is defined as: 1. To exchange or deliver for money or its equivalent, as goods, services, or property; dispose of for a price. 2. To offer for sale, as for one's business or livelihood. 3. To give up or surrender in exchange

for a price or reward. 4. To be responsible for the sale of; promote, render successfully.

Therefore, dealers' number plates may be used on a vehicle owned by a dealership only when it involves the direct functions of demonstrating, buying, or selling vehicles as defined above. The use of any vehicle owned by a dealership which is not included in the above definitions would be outside the scope of the statute.

The second question is whether or not the Motor Vehicle Department may write rules and regulations defining the use of dealer plates. The North Dakota Motor Vehicle Department is an administrative agency under N.D.C.C. Ch. 28-32. More specifically, under N.D.C.C. § 28-32-02, every administrative agency is authorized to adopt, amend, or repeal, reasonable rules in conformity with the provisions of any statute administered or enforced by the agency and to prescribe methods and procedures required in connection therewith. The procedures for rulemaking are found in N.D.C.C. § 28-32-02. We would be happy to assist you in this process.

The third question in your letter concerns the scope of the registrar's authority in writing the rules and regulations regarding dealer plates. N.D.C.C. § 28-32-02 provides that the Attorney General may not approve any rule as to legality when the rule merely repeats or paraphrases the text of the statute purported to be implemented by the rule. The Attorney General may not approve any rule as to legality where the rule exceeds the statutory authority of the agency or is written in a manner that is not concise or easily understandable. For your convenience, I have included a copy of the North Dakota Legislative Council's Style and Format Requirements for Rules Published in the North Dakota Administrative Code.

Sincerely,

Nicholas J. Spaeth

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Enclosure