

**OPINION
75-96**

March 12, 1975 (OPINION)

Mervin Nordeng
Cass County State's Attorney
P.O. Box 2806
Fargo, ND 58102

Dear Mr. Nordeng:

This is in response to your letter of March 5, 1975, wherein you request an opinion of this office relative to the provisions of Section 12-21.1-01 of the North Dakota Century Code, as amended, as the same is applicable to certain local practices involving recreational vehicle sales businesses. You submit the following facts and inquiry in your letter:

"I would like to request your opinion or copies of previous opinions concerning the question of whether recreational vehicle sales businesses are allowed to be open on Sundays for the purpose of showing and displaying their product. It is understood that such businesses do not make actual sales on Sunday, that is, they do not close any deals. However, we have had several businesses of this nature which are open on Sunday to the extent that they allow people onto their lots and show them the various products."

We would initially note the provisions of said Section 12-21.1-01 of the North Dakota Century Code, as amended, as follows:

12-21.1-01. PROHIBITION OF SUNDAY BUSINESS AND LABOR. It shall be unlawful on Sunday for any person, firm, or corporation:

1. To engage in or conduct business or labor for profit in the usual manner and location, or to operate a place of business open to the public; or
2. To cause, direct, or authorize any employee or agent to engage in or conduct business or labor for profit in the usual manner and location, or to operate a place of business open to the public. (Emphasis supplied)

It appears that the display and showing of vehicles is an integral part of the recreational vehicle business. While the actual sales and contracts obviously would constitute the transaction of business within the restriction of the statute concerning the engaging in or conducting business or labor for profit, display or product or merchandise does not clearly come within that portion of the restriction. Noting, however, that the statute also provides that "to operate a place of business open to the public" is a prohibited act, it appears that the described activities would be contrary to the statute restricting such activities.

Since your question does not relate to actual sales on Sundays, the

judicial precedents in this state have little value to the issue presented by your inquiry which relates to businesses remaining open for the sole purpose of display and show. In view of the statute and the provision restricting the conduct of business on Sunday, specifying such activity to include the operating of a place of business open to the public, we are of the opinion that the practice of a dealer of recreational vehicles remaining open on Sundays for the purpose of displaying and showing their product is contrary to the provisions of Section 12-21.1-01 of the North Dakota Century Code, as amended, unless other factual matters and circumstances exist which would exempt such business from the terms of the statute.

We trust that the foregoing general observations will help clarify the matter.

Sincerely,

ALLEN I. OLSON

Attorney General