

**OPINION
45-201**

August 20, 1945 (OPINION)

MOTOR VEHICLES

RE: Dealer - Established Place of Business

This is in reply to your recent letter requesting an opinion from this office as to whether, under our statutes, a person who buys and sells cars may be required to become a licensed dealer and accordingly to procure a dealer's license.

Section 39-0459, of the North Dakota Revised Code of 1943, as amended by chapter 249, of the Session Laws of 1945, prescribes the requirements with which a person must comply in order to be a licensed dealer in passenger automobiles and automobile trucks.

The law provides that a dealer in passenger automobiles and automobile trucks shall pay a license fee of twenty-five dollars per year which shall allow the dealer to deal in new and used cars. It provides further for additional number plates and also provides that no application shall be granted, nor a license issued, to anyone until and unless the applicant shall furnish proof that he has an established place of business, and has, or has the use of, facilities and equipment for the maintenance, servicing and repair of motor vehicles. It also defines what is meant by an established business, etc.

Section 2 of said chapter, requires every person, firm or corporation upon the sale and delivery of any motor vehicle to deliver to the buyer a certificate of title within ten days after such sale.

Section 3, of said chapter, provides that whenever any dealer violates the provisions of the act, or has been convicted of a felony, or has ceased to have an established place of business, the registrar may cancel and revoke his dealer's license.

Section 39-0456, of the North Dakota Revised Code of 1943, provides, among other things, that no manufacturer of, or dealer in, motor vehicles shall cause or permit any vehicle owned by such person to be operated or moved upon a public highway without displaying upon the vehicle a number plate or plates issued to such person under section 39-0411.

The number plates provided for in section 39-0411 are the regular department license plates which each motor vehicle is required to display. Said section further provides that in lieu of registering each such vehicle, the manufacturer or dealer may obtain from the department, upon application therefore and payment of the fees required, one or duplicate number plates as required for different classes of vehicles, which plate or set of plates shall bear thereon a distinctive number, the name of this state, the year issued, together with the word "dealer", or other distinguishing symbol.

It should be observed that the statutes to which I have referred

pertain to licensed dealers, and prescribe requirements with which such dealers must comply.

There is no law, however, which makes it compulsory for a person who may, as an individual, purchase one or more cars, whether new or secondhand, and resell them, to take out a dealer's license provided he complies with the requirements for obtaining certificates of title and license plates, and complies with the laws relating to transfer from himself to the purchaser. In other words, there is no statute prohibiting a private person from buying a car in the regular way and disposing of it by sale or transfer without procuring a dealer's license.

NELS G. JOHNSON

Attorney General