

Opinion No. 32-372

February 8, 1932

BY: E. K. Neumann, Attorney General

TO: Hon. J. M. Lujan, State Comptroller, Santa Fe, New Mexico.

{*133} Your letter of February 6th states that it has been an established rule of the Motor Vehicle Department to charge dealers in motor vehicles the sum of \$ 50.00 for dealers plates and \$ 10.00 for each extra pair of plates he might desire and use. This rule, you state, was established under a construction of Section 11-319 and Section 11-330 of the 1929 Compilation. You also state that, under Section 11-616 of said laws, you have been charging the \$ 5.00 fee to Used Vehicle Dealers.

You request an opinion from this office to know if you have been complying with the law in these respects.

You also request an opinion as to whether or not a Used Vehicle Dealer, in order to demonstrate his cars, should be compelled to purchase a {*134} set of dealers plates, and if a dealer in new vehicles, if he traffics in used vehicles other than his own make should not also be required to take out a Used Vehicle Dealers license.

Chapter 119 of the Laws of 1929, in our opinion, together with Chapter 121 of the Laws of 1929 controls the matters called to our attention by you.

The provisions of law relating to registration of dealers and manufacturers are found in Sections 11-319 and 11-330. The former Section, in part, being:

"A manufacturer of or dealer in motor vehicles, trailers, or semitrailers, owning or operating any such vehicles upon any highway for purpose of demonstration only, and not for private use or hire, in lieu of registering each such vehicle may obtain from the department upon application therefor upon the proper official form and payment of the fees required by law and attach to each such vehicle one or duplicate number of plates, as required for different classes of vehicles as required by Section 30 (11-330). (Then follows other matters not pertinent hereto.)

The latter section cited is as follows:

"A Dealer in Motor Vehicles may, in lieu of registering each vehicle he may wish to demonstrate on any highway, apply for and secure a dealer's demonstration number, which he may use by attaching registration and number plates issued by the department to each vehicle so used for demonstration only, and not for hire or private use.

The annual registration fee to be paid by such dealer shall be \$ 50.00, which shall entitle him to one pair of plates and he shall be required to pay \$ 10.00 for each pair of extra plates he may use."

Section 1 of said Act, Section 11-301 of the Code, which sets forth definitions, defines a Dealer as follows:

(q) "Dealer" -- Every person engaged in the business of buying, selling or exchanging motor vehicles, trailers, or semi-trailers in this state and having an established place of business in this state.

Consequently, it appears that all persons, which includes firms and corporations, engaged in the business of buying, selling or exchanging motor vehicle, trailers or semitrailers in this state and having an established place of business in this state, whether handling either new vehicle or old vehicles or one or both, are required, if they demonstrate such vehicles on the highways in this state, to apply for and receive dealer's demonstration numbers at the price by law set forth. You have been, in our opinion, correctly applying the law.

Regarding the matter of a Used Vehicle Dealer's License, it is our opinion, under Section 11-616 of the 1929 Code, every person dealing in used vehicles, as defined by said Act, is required to take out a Used Vehicle Dealers License. A dealer in new vehicles is exempt only in case he deals exclusively in cars of the make for which he is selling agent.

Summing the matter, in our opinion, all dealers, in order to demonstrate their vehicles, whether new or used vehicles, must have demonstrator's plates at the cost of \$ 50 for the first pair and \$ 10.00 for each additional pair.

Also, in our opinion, all dealers in used vehicles, except dealers in new vehicles who sell, buy or exchange only the vehicles for which they may be selling agents, must have a used vehicle dealers license at a cost of \$ 5.00 per annum.