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OPINION NO. 85-155

June 24, 1985

The Honorable Albert "Tom" Collier
State Representative
2713 Ivy Drive
Newport, Arkansas 72112

Dear Representative Collier:

This Opinion is written in response to your request of June 12, 1985 in which you ask whether the provisions of Acts 1032 and 1058 of the 1985 Regular Session of the General Assembly are applicable only to wholesalers of new and/or used motor vehicles or whether the provisions of these Acts are applicable to retailers of new and used vehicles as well.

Acts 1032 and 1058 were drafted by a member of the Attorney General's Office staff. Section 1 of these Acts amending §3(2) of Act 388 of 1975 are directly based on Tennessee Code Annotated 59-1702(b) which defines "motor vehicle dealer" as:

[A]ny person. . .engaged in the business of selling, offering to sell, soliciting or advertising the sale of motor vehicles or possessing motor vehicles for the purpose of resale either on his own account or on behalf of another, either as his primary business or incidental thereto. (Emphasis added).

The emphasized language was inadvertently omitted in the final draft of Act 1058 of 1985 and thus, the definition of "motor vehicle dealer" found in §2 of that Act could seem misleading at first blush.

However, §3(a) through (c) specifically exempts those entities who or which are not to be included in this definition. Retailers are not exempted. It is an established rule, in construing a statute, that the intention of the lawgiver and the meaning of law are to be ascertained by reviewing the whole and every part of the Act, U.S. v. Anderson, 626 F.2d 1358 (8th Cir. 1980), cert. den. 450 U.S. 912, 101 S.Ct., 1351, 67 L.Ed.2d 336 (1981), and courts will attempt to construe all portions of a statute to give effect to the entirety. Commercial Printing Co. v. Rush, 261 Ark. 468, 549 S.W.2d 790 (1977). When §2 is read in conjunction with other definitional language of Act 1058, it is apparent that the term "motor vehicle dealer" in the Act is intended to apply to retailers. For instance, Section 1(23) defines

"wholesaler" as follows:

"Wholesaler" means any person, resident, or non-resident, not excluded by subsection 3 of this section, who in whole or in part sells used motor vehicles to motor vehicle dealers or who purchases vehicles for the purpose of such resale; provided, however, that motor vehicle dealers who, incidental to their primary business, sell motor vehicles to other dealers are not because of said incidental sales considered wholesalers. (Emphasis added).

From the definitions of dealer, wholesaler, and ultimate purchaser, §3(5), along with the general language of the original and amended Act, it is apparent that the Legislature intended the term "motor vehicle dealer" to include those persons who sell, solicit or advertise the sale of vehicles on a retail basis in contrast to a wholesale function.

The foregoing opinion, which I hereby approve, was prepared by Chief of Staff R.B. Friedlander.

Sincerely,



STEVE CLARK
Attorney General

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