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Opinion No. 06-170

Sale of Recreational Vehicles at Convention Center

QUESTION

May a recreational vehicle dealer sell recreational vehicles ("RVs") during a show at a convention center?

OPINION

Under Tennessee statutes, a dealer may not sell RVs in Tennessee without obtaining a license to operate for each location from which the dealer does business. A dealer must have a permanent place of business in Tennessee to obtain a license. Further, regulations promulgated by the Tennessee Motor Vehicle Commission provide that no sale or negotiation leading to the sale of a vehicle may take place at a motor vehicle show site. Tenn. Admin. R. 0960-1-.17(1)(e). We think the Motor Vehicle Commission is authorized to interpret the regulation to include RVs within this prohibition. Thus, the Motor Vehicle Commission may conclude that, like motor vehicles, RVs may not be sold at a motor vehicle show site. The Commission may wish to amend the regulation to include RVs explicitly within the prohibition.

ANALYSIS

The sale of recreational vehicles ("RVs"), along with other motor vehicles, is extensively regulated under state law. Under Tenn. Code Ann. § 55-17-109, a motor vehicle dealer or salesperson must obtain a license. This statutory scheme is administered by the Tennessee Motor Vehicle Commission. Tenn. Code Ann. § 55-17-107. The term "motor vehicle dealer" includes:

> any person . . . engaged in the business of selling, offering to sell, soliciting or advertising the sale of motor vehicles or *recreational vehicles*, or possessing motor vehicles *or recreational vehicles* for the purpose of resale, either on that person's own account or on behalf of another, either as that person's primary business or incidental to that person's business.

Tenn. Code Ann. § 55-17-102(16) (emphasis added). The term "recreational vehicle" was added to this statute and other statutes governing motor vehicle dealers effective July 1, 2005. 2005 Tenn. Pub. Acts Ch. 379. The term "recreational vehicle" means:

> a vehicular type unit primarily designed as temporary living quarters for recreation, camping, or travel use, which either has its own motive power or is drawn by another vehicle. The basic entities classified as "recreational vehicles" are camping trailers, travel trailers, and motor homes.

Tenn. Code Ann. § 55-17-102(20). A motor vehicle dealer must hold a separate license for each activity in which he or she is engaged for each location where the business is carried on. Tenn. Code Ann. § 55-17-110(a). Under the statute, therefore, a motor vehicle dealer must hold a separate, current license to sell RVs at each location where he or she carries on business. An application for a license must include a description of the applicant's permanent, established place of business and such other places of business the applicant will operate in conjunction with the permanent place of business. Tenn. Code Ann. § 55-17-111(a)(2). The term "established place of business" means:

> a permanent structure or structures owned, leased or rented by a motor vehicle dealer providing signs, facilities and office space used exclusively for buying, selling displaying, advertising, demonstrating, servicing or repairing motor vehicles or functional or nonfunctional parts of motor vehicles and where replacement parts, repair tools and equipment as well as the books and records needed to conduct the business are kept. Such structure or structures must be physically apart from any other business and shall not include a private residence of any sort, tent or temporary stand.

Tenn. Code Ann. § 55-17-102(9). Thus, an RV dealer must have a permanent place of business to be licensed to sell RVs in Tennessee. The statutory scheme does not explicitly prevent a licensed dealer from obtaining a license to sell RVs from a temporary location such as an RV show at a convention center. But Motor Vehicle Commission regulations provide that no sale or negotiation leading to the sale of a "vehicle" may take place at a motor vehicle show site. Tenn. Admin. R. 0960-1-.17(1)(e). Although these regulations were promulgated before RVs were added to the dealer licensing statutes in 2005, we think the Motor Vehicle Commission is authorized to interpret the 2005 act to subject RV dealers to the same limitations as motor vehicle dealers. Thus, the Motor Vehicle Commission may conclude that, like motor vehicles, RVs may not be sold at a motor vehicle show site. The Commission may wish to amend the regulation to include RVs explicitly within the prohibition.

The request also asks what could be done if current law restricts such sales. Because the restrictions are imposed by statute and departmental regulation, they could be changed by amending the statutes under which the Motor Vehicle Commission operates.

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