S T A T E O F T E N N E S S E E
OFFICE OF THE
ATTORNEY GENERAL
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NASHVILLE, TENNESSEE 37202

December 14, 2012

Opinion No. 12-108

Motor Vehicle Dealer Registration Plates

QUESTIONS

1. Are there any restrictions on how dealers and their customers may use vehicles for which dealer registration plates have been issued under Tenn. Code Ann. § 55-4-221(b)?

2. Are dealers or their customers restricted from charging a fee for the use of vehicles for which dealer registration plates have been issued under Tenn. Code Ann. § 55-4-221(b)?

OPINIONS

1. Yes. Pursuant to Tenn. Code Ann. § 55-4-221(b)(1) and (6), a dealer, or a dealer's employee or duly authorized agent, may operate a dealer-owned vehicle with dealer registration plates upon public highways except where the vehicle is used for "work or service." Furthermore, a dealer may authorize the operation by customers of a vehicle for which dealer registration plates have been issued but only for temporary purposes not to exceed 24 hours.

2. No.

ANALYSIS

This request concerns the proper application of Tennessee's motor vehicle registration laws, codified at Tenn. Code Ann. §§ 55-4-101 to -603. The requestor has advised this Office that a motor vehicle dealer operates a business that not only sells motor vehicles but also transports persons for a fee using its fleet of buses owned by the dealer. Occasionally the demands of the transport business exceed the dealer's available fleet, and to meet the demand the dealer will temporarily utilize in its transport business a bus or other motor vehicle for which a dealer registration plate has been issued pursuant to Tenn. Code Ann. § 55-4-221(b). The questions have arisen whether use of such a bus or other motor vehicle is authorized under Tenn. Code Ann. § 55-4-221(b) and, if so, whether a fee can be charged for that use.

1. Every motor vehicle driven or moved upon a Tennessee highway is required to comply with Tennessee's registration and certificate of title laws, with certain defined exceptions. Tenn. Code Ann. § 55-3-101(a). One of those exceptions is for vehicles bearing a dealer registration plate under Tenn. Code Ann. § 55-4-101(a)(1). The issuance and use of dealer registration plates are controlled by Tenn. Code Ann. § 55-4-221, which provides in relevant part:

> (a) Registration plates issued under the dealer category may be issued to manufacturers, dealers and transporters of motor vehicles as provided for in this part.
> (b)(1) Any dealer owning any vehicle that may be legally operated upon the streets or highways of this state with a regular vehicle registration may, either in person or through a duly authorized agent or employee, operate or move the vehicle upon any highway of the state without registering each such vehicle, upon condition that the vehicle display a special purpose plate issued to that owner as prescribed in this part. The dealer may further authorize the operation of the vehicle bearing such plates by customers for temporary purposes not to exceed twenty-four (24) hours.
> (2) The special purpose dealer plate shall have the legend "TENN" at the top of the plate and shall have "auto dealer" at the bottom of the plate. The legend shall contain the letter "D" and five (5) numbers. The special purpose dealer plate for a motor vehicle dealer that sells used motor vehicles shall have a red background and white letter and numbers. The special purpose dealer plate for a franchise motor vehicle dealer that sells new motor vehicles shall have a white background and black letter and numbers.
> (3) Any dealer who has a valid number assigned by the motor vehicle commission may make application to the department for one (1) or more special purpose plates. The fee for the first plate is forty-seven dollars and thirty cents ($47.30), and the fee for any plates in addition to the first plate is twenty-three dollars and sixty-five cents ($23.65) for each additional plate. No dealer shall be permitted to purchase more than two hundred twenty-five (225) auto dealer plates during a registration year.
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> (6) This section shall not apply to work or service vehicles owned by a manufacturer, transporter or dealer.

This statute by its plain language imposes certain conditions and restrictions on the issuance and use of dealer registration plates. Tenn Code Ann. § 55-4-221(b)(1) allows a dealer, or a dealer's employee or duly authorized agent, to operate a vehicle with dealer registration plates upon public highways, thereby apparently recognizing such operation on public highways may be necessary while the vehicle is held for sale in the dealer's inventory. Tenn. Code Ann. § 55-4-221(b)(1) states that a dealer may allow a customer to use a vehicle with a dealer registration plate only "for temporary purposes not to exceed twenty-four (24) hours." Tenn.

Code Ann. § 55-4-221(b)(6), however, expressly excludes any "work or service vehicles" owned by a dealer from eligibility for issuance of a dealer registration plate.

There admittedly is some tension between Tenn. Code Ann. § 55-4-227(b)(1), which permits a dealer to operate a vehicle with dealer registration plates upon public highways, and Tenn. Code Ann. § 55-4-221(b)(6), which prohibits a dealer from using a vehicle with dealer registration plates as a "work or service vehicle." The term "work vehicle" is not defined, and in such cases courts will look to dictionary definitions, including those found in Black's Law Dictionary, to ascertain the meaning of undefined statutory terms. *See State v. Meeks*, 262 S.W.3d 710, 719-20 (Tenn. 2009); *State v. Edmondson*, 231 S.W.3d 925, 927-28 (Tenn. 2007). Black's Law Dictionary defines "work" as "[p]hysical and mental exertion to attain an end, *esp.* [*especially*] *as controlled by and for the benefit of an employer*." Black's Law Dictionary 1635 (8th ed. 2004) (emphasis added). In light of this definition of work, the more persuasive interpretation is that Tenn. Code Ann. § 55-4-221(b)(6) would exclude any vehicle owned by a dealer that is used even on a temporary basis in the dealer's "work," or business, from eligibility for dealer registration plates. This exclusion is absolute and contains no exceptions, such as an exception for a vehicle temporarily used in the dealer's work or business. This provision stands in contrast to the exception allowed for a dealer's customer to use a vehicle with a dealer registration plate for "temporary purposes not to exceed twenty-four (24) hours." *Compare* Tenn. Code Ann. § 55-4-221(b)(6) *with* Tenn. Code Ann. § 55-4-221(b)(1). *See also State v. Casper*, 297 S.W.3d 676, 693 (Tenn. 2009) (stating the general rule of statutory construction that where the General Assembly includes specific language in one section of an act but omits the same language in another section of the same act, it is presumed the General Assembly acted purposefully in excluding such language). Thus once a motor vehicle is used directly to support a work or business venture of a dealer even on a temporary basis, as opposed to being held as inventory for sale and used for purposes related to the dealer's business of offering the vehicle for sale, the vehicle loses its eligibility for a dealer registration plate and must be registered and titled under Tenn. Code Ann. § 55-3-101(a). *See State v. White*, 362 S.W.3d 559, 566 (Tenn. 2012) (quoting *Eastman Chem. Co. v. Johnson*, 151 S.W.3d 503, 507 (Tenn. 2004)) (stating the general rule that, where the language of a statute is clear, courts will apply its plain meaning without a forced interpretation that would limit or expand the statute's application).

2. While the response to question one likely pretermits question two, Tenn. Code Ann. § 55-4-221(b) contains no restriction on a dealer or a customer charging a fee for the use of vehicles that have dealer registration plates. For instance, a dealer could properly charge a customer a fee for the temporary use of such a vehicle authorized by Tenn. Code Ann. § 55-4-221(b)(1).

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