

OPINION NO. 80-026**Syllabus:**

A foreign motor vehicle leasing dealer which has no place of business in Ohio need not procure an Ohio motor vehicle leasing dealer's license pursuant to R.C. Chapter 4517 if the entire leasing transaction occurs outside of Ohio. The status of the dealer is not altered even if the motor vehicle is to be titled, registered, and operated in Ohio.

To: Dean L. Dollison, Registrar, Bureau of Motor Vehicles, Columbus, Ohio
By: William J. Brown, Attorney General, May 13, 1980

I have before me your request for my opinion regarding the application of Ohio's laws on automobile leasing to foreign leasing dealers. Your question may be stated as follows:

Must a motor vehicle leasing dealer, which has no place of business in Ohio, procure an Ohio motor vehicle leasing dealer's license pursuant to R.C. Chapter 4517 if the entire leasing transaction with an Ohio customer occurs outside of Ohio, but the motor vehicle is to be titled, registered, and operated in Ohio?

R.C. Chapter 4517 governs the selling and leasing of motor vehicles in Ohio. A "motor vehicle leasing dealer" is defined in R.C. 4517.01(M) as follows:

"Motor vehicle leasing dealer" means any person engaged in the business of regularly making available, offering to make available, or arranging for another person to use a motor vehicle pursuant to a bailment, lease, or other contractual arrangement under which a charge is made for its use at a periodic rate for at least a monthly term, and title to the motor vehicle is in a person other than the user, but does not mean a manufacturer or its affiliate leasing to its employees or dealers.

R.C. 4517.02(A) prohibits unlicensed "motor vehicle leasing dealers," as defined above, from engaging in the motor vehicle leasing business. It states:

Except as otherwise provided in this section, no person shall:
. . .

(3) Engage in the business of regularly making available, offering to make available, or arranging for another person to use a motor vehicle, in the manner described in division (M) of section 4517.01 of the Revised Code, unless he is licensed as a motor vehicle leasing dealer under sections 4517.01 to 4517.45 of the Revised Code. . . .

R.C. 4517.01(A) provides that "persons," as the term is used in R.C. Chapter 4517, includes "individuals, firms, partnerships, associations, joint stock companies, corporations, and any combinations of individuals."

Assuming for purposes of this opinion that the out-of-state persons contemplated in your request would qualify under R.C. 4517.01(M) as "motor vehicle leasing dealers" if they were in Ohio, the issue becomes whether they are engaging in the business described in R.C. 4517.02(A)(3) in Ohio, and thus required to be licensed.

In your letter of request you elaborated on the type of business operations with which you are concerned. First, the foreign persons have their headquarters

outside Ohio and have no place of business in Ohio. Second, the leasing contracts are not negotiated or consummated in Ohio. A difficulty is presented, however, in that the leased cars are titled, registered, and operated in Ohio.

To acquire Ohio certificates of title and registration, foreign motor vehicle leasing dealers must comply with R.C. 4505.06 and R.C. 4503.10, which govern the form of application for the certificates. Typically, application for and receipt of certificates of title and registration would be completed prior to delivery of the car to the Ohio customer since, in a standard leasing situation, the dealer owns the car and retains title to it for the duration of the contract. See R.C. 4517.01(M).

In my opinion, the fact that title, registration, and operation are in Ohio would not alone serve to require foreign motor vehicle dealers to be licensed in Ohio. A state must have jurisdiction over a person before the person may be bound by the laws of that state. In the instant case, the fact that the foreign dealers have no place of business in Ohio indicates that they are not within the jurisdiction of Ohio as far as the leasing transactions are concerned.¹ As the Ohio Supreme Court stated in Lehman v. McBride, 15 Ohio St. 573, 608 (1863):

It is undoubtedly true, that legislative enactments can only operate . . . upon persons and things within the jurisdiction of the law-making power. And it is also true, generally, that such jurisdiction can only be coextensive with the territorial limits of the state. . . .

The operation of the law, that is to say, the effect which the law gives to the acts which it authorizes, is limited to the state and its own citizens, over whom its jurisdiction can not be questioned.

R.C. 4517.02(A)(3) is directed at the leasing transactions, not at the titling, registering, or operating of a car in Ohio. R.C. 4517.01(M) and R.C. 4517.02(A)(3) purport to govern the "regularly making available, offering to make available, or arranging for another to use a motor vehicle pursuant to a bailment, lease, or other contractual arrangement" at some rate for at least a monthly term. In the situation you described, all of the types of acts which are regulated by R.C. 4517.02(A)(3) occur outside of the State of Ohio. To nonetheless require the lessor to be licensed in Ohio simply because of the locus of title, registration and operation would amount to an impermissible extension of the law of Ohio beyond state boundaries. Lehman v. McBride.

The above conclusion that foreign leasing dealers are not engaged in the leasing business in Ohio is supported by the license application requirements imposed on motor vehicle leasing dealers. Pursuant to R.C. 4517.06, a separate license application must be filed "for each county in which the business of leasing motor vehicles, as described in division (M) of section 4517.01 of the Revised Code, is to be conducted." In addition, a photograph of the dealer's place of business in the county must accompany the application. Since the foreign dealers cannot be considered to be leasing motor vehicles in any particular county, and since there is no physical plant in any particular county, the licensing requirements of R.C. 4517.06 clearly cannot apply. Hence, the requirements of the application indicate there was no legislative intent to license those persons with no place of business in Ohio.

Accordingly, it is my opinion, and you are advised, that a foreign motor vehicle leasing dealer which has no place of business in Ohio need not procure an Ohio motor vehicle leasing dealer's license pursuant to R.C. Chapter 4517 if the entire leasing transaction occurs outside of Ohio. The status of the dealer is not altered even if the motor vehicle is to be titled, registered, and operated in Ohio.

¹This opinion does not, of course, address the question of whether foreign motor vehicle leasing dealers must be licensed or registered pursuant to other provisions of the Revised Code, such as R.C. Chapter 1703, requiring the licensing of foreign corporations doing business in Ohio.