

## OPINION NO. 70-115

**Syllabus:**

An automobile leasing company which regularly sells or offers to sell its used automobiles to an ultimate purchaser for use as a consumer, is subject to the dealer's licensing requirements of Chapter 4517, Revised Code.

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**To: Fred Rice, Registrar, Bureau of Motor Vehicles, Columbus, Ohio**  
**By: Paul W. Brown, Attorney General, September 1, 1970**

I have before me your request for my opinion as to whether an automobile leasing company which offers its used automobiles for sale direct to individuals for their own use is required to have a dealer's license. Your request states that although the leasing company formerly sold exclusively to dealers or auctioneers, they are now advertising and selling their used automobiles direct to the public.

Section 4517.18, Revised Code, provides:

"No person shall engage in the business of selling, auctioning, displaying, offering for sale, or dealing in motor vehicles at retail without having a license therefor as required by sections 4517.01 to 4517.18, inclusive, of the Revised Code."

Section 4517.01 (F), Revised Code, states in pertinent part:

"'Engaging in business' means commencing, conducting, or continuing in business \* \* \* making a casual sale is not engaging in business."  
(Emphasis added)

And Section 4517.01 (G), Revised Code, in defining retail sale, provides:

"'Retail sale' or 'sale at retail' means the act or attempted act of selling, bartering, exchanging, or otherwise disposing of a motor vehicle to an ultimate purchaser for use as a consumer."  
(Emphasis added)

The problem of what is a "casual sale" was dealt with in Opinion No. 2511, Opinions of the Attorney General for 1938, which held in paragraphs two and three of its syllabus:

"2. The question as to whether or not a sale of a motor vehicle is a casual or isolated sale, as that term is used in Section 6302-1 of the General Code [Section 4517.01 (F), Revised Code], is dependent entirely upon a factual determination made in each particular case under consideration.

"3. Sales made in more or less continuous succession can not be said to be casual or isolated. (State, ex rel. City Loan and Savings Company of Wapakoneta, Ohio vs. Zellner, Clerk, 133 O.S. 263, Ohio Bar, Feb. 14, 1938.)"

From the facts you have given me, it would appear that the leasing company regularly sells its used automobiles to ultimate users and certainly such activity could not be classified as a "casual sale."

Accordingly, it is my opinion and you are hereby advised that an automobile leasing company which regularly sells or offers to sell its used automobiles to an ultimate purchaser for use as a consumer, is subject to the dealer's licensing requirements of Chapter 4517, Revised Code.