

The State of South Carolina



Office of the Attorney General

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May 3, 1994

Representative Robert W. Harrell, Jr.
South Carolina House of Representatives
306-D Blatt Building
Columbia, South Carolina 29211

Dear Representative Harrell:

In your letter of January 21, 1994, to Attorney General T. Travis Medlock, you have posed the following question:

Is there any legal prohibition against a licensed car dealer in South Carolina selling a motor vehicle on consignment?

You have indicated that a constituent has been advised that the South Carolina Department of Transportation has taken the position that in order for a dealer to sell a motor vehicle, the dealer must have the vehicle titled in the dealer's name.

For the purpose of replying to your inquiry, it will be assumed that a "consignment" sale refers to a transaction in which the owner of the motor vehicle gives possession of it to a licensed motor vehicle dealer who then acts as the owner's agent in selling the car. Sometimes the motor vehicle dealer would be authorized to sell the automobile outright and in other cases the dealer would be authorized only to solicit offers to buy the automobile and would then convey the offer to the owner who could accept or reject. In either case, title to the vehicle remains with the owner until the sale is made, and at that time title passes from the owner directly to the purchaser. It is also assumed that there is no security interest created in the vehicle as a part of the transaction.

We have reviewed the South Carolina Code of Laws and particularly Title 56 which deals with motor vehicles. We have also reviewed the regulations promulgated by the South Carolina Department of Transportation. I have also spoken with William L.

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Todd and Joseph H. Lumpkin, Jr., Legal Office, South Carolina Department of Highways and Public Transportation.

I am unable to find any statute or regulation which prohibits the practice of a licensed automobile dealer from selling another person's automobile on consignment.¹

I hope this answers your question, and if I may be of further assistance please do not hesitate to call upon me.

With my kind regards, I am

Very truly yours,

Cameron B. Littlejohn

Cameron B. Littlejohn, Jr. *CBL*
Assistant Attorney General

CBLjr./fg

REVIEWED AND APPROVED:

[Signature]
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¹ It is assumed that such consignment sales are undertaken in good faith and not in an attempt to evade the designation of "dealer" in S.C. Code Ann. §56-15-10(h).