

1973 WL 26884 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

September 17, 1973

\*1 Mr. F. E. Harris  
Director  
Vehicle Titles & Registration  
South Carolina State Highway Dept.  
P. O. Box 191  
Columbia, South Carolina 29202

Dear Mr. Harris:

The question has recently been raised as to whether mobile home dealers are required to obtain a motor vehicle dealer's license. Section 46-91, S. C. Code Ann. (1962) provides, in part.

Motor vehicle dealer's license.—Before engaging in the business of a motor vehicle dealer in this State every person shall first make application for a license to engage in such business to the [South Carolina State Highway] Department. . . . The fee for such license shall be twenty-five dollars. . . .

Contained in the same chapter as § 46-91 and applicable thereto is the following definition of the phrase motor vehicle dealer'. Every person engaged in the business of buying, selling or exchanging vehicles of a type required to be registered under the laws of this State and who has an established place of business for such purpose in this State. . . . [emphasis added]. Section 46-2(24), S. C. Code Ann. (1962).

The question becomes, therefore whether mobile homes are 'vehicles . . . required to be registered' under the laws of South Carolina.

Section 46-11 of the Code provides:

Vehicles required to be registered and licensed.—Every motor vehicle, trailer, semitrailer, pole trailer and special mobile equipment vehicle driven, operated or moved upon a highway in this State shall be registered and licensed in accordance with the provisions of this chapter. [Emphasis added.]

Section 46-2(13) defines 'trailer' as:

Every vehicle with or without motive power other than a pole trailer, designed for carrying persons or property and for being drawn by a motor vehicle and so constructed that no part of its weight rest upon the towing vehicle . . .

The language contained in § 46-2(13) indicates that 'mobile homes' do not come within the coverage of § 46-11, and are therefore not required to be 'registered under the laws of this State.' This construction is further buttressed by reference to § 46-35.3 of the Code which sets forth the registration and license fee for 'house trailers.' That section defines 'house trailers' in a way which might arguably include 'mobile homes,' but further provides.

The Department may not license and register a house trailer which exceeds the permissible size limitations prescribed in §§ 46-654, 46-657 and 46-657.1, but such house trailers . . . may be permitted to be moved over the highways by the Department under special permits issued pursuant to §§ 46-667 to 46-667.3 . . . [emphasis added].



Sections 46-654, 46-657 and 46-657.1 reveal that the prescribed maximum permissible size limitations, referred to in § 46-35.3 above, are:

Width—8 feet

Height—13 feet, six inches

Length—40 feet.

The above mentioned sections of Title 46 would clearly require the licensing and registering of most 'camper trailers.' I am informed, however, that most 'mobile homes' exceed 8 feet in width and 40 feet in length. If this is the case, then § 46-35.3 of the Code would clearly prohibit their licensing and registration. This conclusion is in fact assured by § 46-139(40) of the Code which defines 'mobile home,' although in relation to a different chapter of Title 46 than that considered above.

\*2 'Mobile home. Every vehicle which is designed, constructed and equipped principally as a permanent dwelling place, and in equipped to be moved on streets and highways, but which exceeds the size limitations prescribed in ?? and which cannot be licensed and registered by the Department as a house trailer.

(This definition was included in et No. 1474 of 1972 which, among other things, prohibited the sale of a mobile home unless a certificate of title had been issued therefor or there was a manufacturer's certificate of origin made out to the vendor. See § 46-150, S. C. Code Ann. (1962) (1972 Supp.))

It is further worthy of note that et No. ?? of 1973, among other things, requires that mobile home dealers pay an annual fee to and be licensed by the South Carolina Manufactured Housing Board.

In accord with all of the above, it is the opinion of this Office that mobile home dealers, who sell mobile homes with dimensions greater than those prescribed in §§ 46-654, 46-657, and 46-657.1 and which are therefore not required to be registered and licensed pursuant to §§ 46-11 and 46-35.3, may not be required to obtain a motor vehicle dealer's license.

Yours very truly,

Ellison U. Smith, IV  
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