

BUTLER AUTO RECYCLING, INC.  
6401 N. PALAFOX STREET  
PENSACOLA, FL 32503,

Petitioner,

v.

STATE OF ALABAMA  
DEPARTMENT OF REVENUE.

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STATE OF ALABAMA  
DEPARTMENT OF REVENUE  
ADMINISTRATIVE LAW DIVISION

DOCKET NO. S. 07-115

### FINAL ORDER

Butler Auto Recycling, Inc. ("Petitioner") appealed to the Administrative Law Division pursuant to Code of Ala. 1975, §40-2A-8(a) concerning the Department's refusal to issue it an Alabama buyer's identification card. A hearing was conducted on March 7, 2007. Jim Butler attended the hearing. Assistant Counsel Duncan Crow represented the Department.

The Petitioner has operated as a motor vehicle dismantler and parts recycler in Pensacola, Florida since 1977. It is currently licensed by the State of Florida as "an independent dealer in motor vehicles."

The Petitioner applied to the Department for an Alabama buyer's identification card. Such cards are required by Alabama law before any person can buy at a salvage pool or salvage disposal sale in Alabama. Code of Ala. 1975, §40-12-421. The Department denied the Petitioner's application because the Petitioner is not licensed as an automobile dismantler and parts recycler in Alabama, and, according to the Department, also does not have a similar or equivalent license from Florida or any other state.

Section 40-12-421(a) provides that a person that is currently licensed as an automobile dismantler and parts recycler may attend a salvage pool or salvage disposal sale in Alabama. Such person must also obtain a separate buyer's identification card from the Department. Code of Ala. 1975, §40-12-422 allows salvage dealers licensed in other

states to also buy at an Alabama salvage pool or salvage disposal sale; provided, they must first obtain a buyer's identification card from the Department.

The Department's long-standing position is that an out-of-state salvage dealer will be issued an Alabama buyer's card only if the dealer has a license in the other state that is equivalent to the Alabama automotive dismantler and parts recycler license. That policy was confirmed in recently promulgated Reg. 810-8-5-.12.

Paragraph (5) of Reg. 810-8-5-.12 states that a license issued by another state will be deemed equivalent to an Alabama dismantler and parts recycler license if the license requires or allows the licensee (1) to engage in the business of purchasing, dismantling, repairing, and selling wrecked vehicles, (2) to post cash or a surety bond as security, (3) to have a physical location in the state, and (4) to maintain adequate records.

The Department denied the Petitioner's application in this case because it determined that the Petitioner's Florida license was not equivalent to the Alabama dismantler and recycler license. The Petitioner contends, however, that the licenses are equivalent. The Petitioner's representative submitted a letter at the March 7 hearing from the Deputy Chief of Florida's Division of Motor Vehicles. The letter reads as follows:

This letter is written to clarify the type of license issued to salvage vehicle dealers. Florida does not issue a "salvage dealer license." Instead, we issue an independent dealer license to any person who engages in the business of acquiring salvaged or wrecked motor vehicles for the purpose of reselling them and their parts. This license allows the dealer to buy and sell used cars whether salvage or not. They may purchase these vehicles from individuals, other dealers, or at auction.

The above letter establishes that the Florida independent dealer license not only allows the holder to buy and sell motor vehicles, it also authorizes the holder to engage in the same activities, i.e., the dismantling, rebuilding, and recycling of salvage vehicles and

parts, which are permitted by the Alabama dismantler and parts recycler license. The Florida license also requires the licensee to have a bond and keep adequate records, as required to be an “equivalent” license pursuant to Reg. 810-8-5-.12(5). The Florida independent dealers license should thus be accepted as an equivalent license for purposes of the Alabama buyer’s identification card.

The Department cited four Administrative Law Division cases in which the Department’s refusal to issue a buyer’s identification card to an out-of-state salvage dealer was affirmed. In two of the cases, however, the Department’s position was affirmed because the petitioners failed to timely respond as directed in a preliminary order. See, *College Auto Sales, Inc. v. State of Alabama*, S. 06-781 (Admin. Law Div. 10/16/06) and *H & H Motors, Inc. v. State of Alabama*, MV. 06-328 (Admin. Law Div. 5/30/06). Another of the cited cases involved a North Carolina dealer. That dealer was not allowed a buyer’s card because it was not licensed as a dismantler and parts recycler by North Carolina. There was no evidence submitted in that case as to the types of licenses issued by North Carolina.

The final case cited by the Department did involve a Florida dealer. In affirming the Department’s refusal to issue the dealer a buyer’s card, the Administrative Law Division found that the dealer did “not have a similar license from another state because Florida does not issue similar type licenses.” *Price Salvage v. State of Alabama*, S. 06-645 (Admin. Law Div. 9/5/06) at 2. That statement is incorrect because the Administrative Law Division was not aware at the time that the Florida independent dealers license is similar or equivalent to the Alabama dismantler and parts recycler license.

The Department is directed to issue the Petitioner a buyer's identification card in due course.

This Final Order may be appealed to circuit court within 30 days pursuant to Code of Ala. 1975, §40-2A-9(g).

Entered March 16, 2007.

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BILL THOMPSON  
Chief Administrative Law Judge

bt:dr

cc: Duncan R. Crow, Esq.  
Jim Butler  
Joe Cowen  
Curtis Stewart