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OPINION	:	No. 82-602
	:	
of	:	<u>NOVEMBER 30, 1982</u>
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THE HONORABLE PETER R. CHACON, MEMBER OF THE CALIFORNIA STATE ASSEMBLY, has requested an opinion on the following question:

May a private corporation engage in the business of facilitating the registration of motor vehicles for compensation?

CONCLUSION

A private corporation may engage in the business of facilitating the registration of motor vehicles for compensation if the vehicle owner informs the Department of Motor Vehicles that the corporation is his representative and the department grants permission to the corporation to act as such representative.

ANALYSIS

We are informed that private corporations are obtaining the registration and reregistration of motor vehicles on behalf of registered owners throughout the state. The corporations provide the service for a fee of from \$10 to \$30 in most cases, and the owners thereby avoid a one or two hour wait at an office of the Department of Motor Vehicles (hereafter "Department").

The question presented for analysis is whether such a business enterprise is prohibited by state law, specifically Vehicle Code section 26.¹ We conclude that as long as the corporation has been given permission by the Department to represent the owners (after the owners have given written notice to the Department of the representation), the business venture complies with the provisions of section 26.

Section 26 states:

"No person shall engage in the business of soliciting or receiving any application for the registration, reregistration, or transfer of registration of any vehicle of a type subject to registration under this code, or for any nonresident permit for the operation of any such vehicle within this State, or for a driver's license, or of transmitting or presenting the same to the department or any branch office thereof, when any compensation is solicited or received for the service. This section does not apply to a common carrier acting in the regular course of its business in transmitting the applications, nor to an agency or bureau if the department is informed in writing by the person represented that the agency or bureau is his representative and the department has granted permission to the agency or bureau to act as such representative."²

In interpreting the language of section 26, we are mindful of several principles of statutory construction. The primary rule is to "ascertain the intent of the Legislature so as to effectuate the purpose of the law." (*People v. Davis* (1981) 29 Cal.3d 814, 828.) In ascertaining legislative intent, we turn first to the language used, giving the words their usual and ordinary meanings. (*People v. Belleci* (1979) 24 Cal.3d 879, 884.) Both the legislative history of a statute and the wider historical circumstances of its enactment may aid in determining the statutory purpose. (*California Mfgs. Assn. v. Public Utilities Com.* (1979) 24 Cal.3d 836, 844.) "Wherever reasonable, interpretations which

¹ All section references hereafter are to the Vehicle Code unless otherwise indicated.

² 2 Effective January 1, 1983, the reference to nonresident permits has been deleted. (Stats. 1982, Ch. 794, § 1.)

produce internal harmony, avoid redundancy, and accord significance to each word and phrase are preferred." (*Pacific Legal Foundation v. Unemployment Ins. Appeals Bd.* (1981) 29 Cal.3d 101, 114.)

Examining section 26 in detail, we first note that the statute's general prohibition applies to a "person" engaging "in the business of soliciting or receiving any application. . . ." Section 470 defines "person" as including "a natural person, firm, copartnership, association, or corporation." Hence, even though a private corporation is not expressly mentioned in section 26, it is included in the term "person" as provided by section 470. (See also § 100.)

The next term contained in section 26 that requires some analysis is "compensation." Ordinarily, "compensation" is "payment for value received or services rendered." (Webster's New Internat. Dict. (3d ed. 1966) p. 463.) We believe that the term is exceedingly broad and that a fee of \$10 would fall within its scope.

An exception to the general prohibitory language of the statute is provided for "a common carrier acting in the regular course of its business in transmitting the applications." A "common carrier" provides transportation to the public for compensation. (See Civ. Code, § 2168; Pub. Util. Code, § 211; 7 Ops.Cal.Atty.Gen 282, 283 (1946).) Here, the private corporation is not offering to transport persons or property and thus would not be entitled to this exemption provision.

We now reach the critical language of section 26: the meaning of "agency" and "bureau." The former term is commonly defined as "a person or thing through which power is exerted or an end achieved" and "an establishment engaged in doing business for another." (Webster's New Internat. Dict. (3d ed. 1966) p. 40.) The latter term is generally defined as a "commercial agency that serves as a clearinghouse or intermediary for exchanging information, making contacts, or coordinating cooperative activities." (*Id.*, at p. 298.)

It has been suggested that we insert "governmental" or "travel" or some other term before the phrase "agency or bureau" in section 26. We reject the suggestion. In *Kirkwood v. Bank of America* (1954) 43 Cal.2d 33, 341, the Supreme Court stated, "Words may not be inserted in a statutory provision under the guise of interpretation." We have found nothing in the legislative history of section 26 to support the qualifying terms suggested. The "governmental" suggestion does not reflect past or current administrative practice, does not take into account the doctrine of sovereign immunity (see *Regents of University of California v. Superior Court* (1976) 17 Cal.3d 533, 536; *City of Los Angeles v. City of San Fernando* (1975) 14 Cal.3d 199, 276-277), and accordingly would render

some language of section 26 meaningless. Likewise, the "travel" suggestion does not appear to reflect past or current commercial practice.

It is true that automobile clubs facilitate vehicle registrations for their members. Pursuant to section 4610, the Department "may authorize . . . the validation of a registration card . . . by a person or organization holding a certificate of authority under the provisions of [Insurance Code sections 12140-12311]." The latter statutory scheme governs the "selling or offering for sale, furnishing or procuring motor club service" (Ins. Code, § 12142), including "the rendering of assistance by a motor club to any person in obtaining . . . [r]egistration of a motor vehicle with the State . . . [and] transfer of legal or registered ownership upon the records of the Department of Motor Vehicles" (Ins. Code, § 12155).

It is also true that automobile dealers facilitate the registration or re-registration of vehicles that they sell. (§ 4456.)

We do not believe, however, that the phrase "agency or bureau" in section 26 is restricted to automobile clubs or automobile dealers. The validation of a registration card by an automobile club under section 4610 would appear to encompass more than what is contemplated in section 26, and an automobile dealer has a statutory duty to facilitate registration regardless of whether the owner gives written notice to the Department of the agency relationship.

On the other hand, "agency or bureau" must mean something other than "person." The language of section 26 was first enacted by the Legislature in 1927 as follows:

"No person shall engage in the business of soliciting or receiving any application for the registration, re-registration or transfer of registration of any motor vehicle or for any nonresident permit for the operation of any motor vehicle within this state nor for any operator's or chauffeur's license and of transmitting or presenting the same to the division of motor vehicles or any branch office thereof when any compensation is solicited or received for any such service *without first obtaining from the division of motor vehicles and having in possession a permit to engage in such business*, and a violation of this provision and every separate act done in violation of this provision shall constitute a misdemeanor. The chief of the division of motor vehicles is hereby authorized to promulgate and enforce rules and regulations governing the issuance of permits and in proper instances in the discretion of the chief of the division to issue permits hereunder and to revoke such

permits upon any violation of the rules and regulations adopted hereunder by the division." (Stats. 1927, ch. 752, § 7, pp. 1422-1423; emphasis added.)

In 1929 the Legislature changed the language to the following:

"No person shall engage in the business of soliciting or receiving any application for the registration, re-registration, or transfer of registration of any motor vehicle or for any nonresident permit for the operation of any motor vehicle within this state nor for any operator's or chauffeur's license and of transmitting or presenting the same to the division of motor vehicles or any branch office thereof when any compensation is solicited or received for any such service; provided, however, that the foregoing provisions shall not apply to a common carrier acting in the regular course of its business in transmitting applications, permits and licenses as hereinabove mentioned, and shall not apply to service rendered by a *person*, agency or bureau to individuals, companies or corporations, where such individuals, companies or corporations, have previously in writing informed the chief of the division of their desire to be represented by such *person*, agency or bureau and the chief of the division has granted permission to said *person*, agency or bureau to act as such representative." (Stats. 1929, ch. 253, § 9, p. 513; emphases added.)

In 1935 the Legislature deleted the reference to "person" in the "person, agency or bureau" exception (Stats. 1935 ch. 27, § 37, p. 107), and since then the language has remained essentially the same.

These changes, as well as the deletion of the nonresident permit provision in 1982, indicate that an "agency or bureau" signifies something more than a "person." The statutory amendments appear to lessen the administrative burden of the Department in regulating the permit process. It is well settled that the Legislature may make classifications based upon considerations of administrative convenience. (See *Ferrante v. Fish & Game Commission* (1946) 29 Cal.2d 365, 371-374; *City of San Jose v. Donahue* (1975) 51 Cal.App.3d 40, 45; *Child v. Warne* (1961) 194 Cal.App.2d 623, 636.)

Of some additional significance is the fact that automobile clubs and automobile dealers who assist motorists in registering their vehicles are required to be bonded for the public's protection. (§ 11710; Ins. Code, § 162, subd. (b).) Any "person" who examines the Department's records and provides information therefrom to the public for compensation is also required to be bonded. (§ 1814.) While section 26 does not require a bond, it does have the safeguard of requiring the Department's permission to engage in the business in question.

On the whole, we cannot construe section 26 so narrowly as to preclude a private corporation from acting as the representative of motorists who give written notice of the representation to the Department and where the corporation's services are acceptable to the Department. By eliminating the "person" reference in 1935, the Legislature appears to have attempted to reduce the Department's administrative burden to manageable proportions. Dealing with large corporations that are in the business of representing motorists may be less burdensome than reviewing applications regarding unknown individual representatives. Importantly, such corporations meet the usual definitions of "agency" and "bureau."

Finally, we observe that although the person represented by the agency or bureau must give written notice to the Department, it is unnecessary for the Department to grant its permission in writing. If written permission had been intended, the Legislature knew how to express it. (See *Safer v. Superior Court* (1975) 15 Cal.3d 230, 238.) Consequently, the Department is free to give permission in whatever form is best suited to its administrative circumstances.

In answer to the question presented, therefore, we conclude that a private corporation may engage in the business of facilitating the registration of motor vehicles for compensation if the vehicle owner informs the Department that the corporation is his representative and the Department grants permission to the corporation to act as such representative.
