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CIVIL RIGHTS: Public accommodations.

PUBLIC ACCOMMODATIONS: Automobile leases.

AGE OF MAJORITY: Automobile lease to person less than 21 years of age.

An auto-rental company may refuse to lease to persons less than 21 years of age.

Opinion No. 5090

November 23, 1976.

Honorable Perry Bullard
State Representative
Capitol Building
Lansing, Michigan

You have asked for my opinion as to whether the age of majority law prohibits an auto-rental company from refusing to rent to persons who are under the age of 21 but over the age of 18.

1971 PA 79, § 2; MCLA 722.52; MSA 25.244(52) provides in pertinent part:

“Notwithstanding any other provision of law to the contrary, a person who is 18 years of age but less than 21 years of age when this act takes effect, and a person who attains 18 years of age thereafter, is deemed to be an adult of legal age for all purposes whatsoever and shall have the same duties, liabilities, responsibilities, rights and legal capacity as persons heretofore acquired at 21 years of age.”

With respect to the issue at hand, this provision grants persons between the ages of 18 and 21 years the *legal capacity* to enter into and be bound by contractual agreements; it imposes no legal duty upon others to contract with them. The act may not, therefore, be construed to compel an auto-rental company to deal with any person with whom it refuses to do business.

You have also asked whether the Equal Protection requirements or other provisions of the Michigan and United States Constitutions prohibit an auto-rental company from refusing to rent to persons in the 18 through 21 age group.

The equal protection clause of the 1963 Michigan Constitution, art 1, § 2, provides:

“No person shall be denied the equal protection of the laws; nor shall any person be denied the enjoyment of his civil or political rights or be discriminated against in the exercise thereof because of religion, race, color, or national origin. The legislature shall implement this section by appropriate legislation.”

The Fourteenth Amendment to the United States Constitution similarly provides that no state shall deny any person within its jurisdiction the equal protection of the laws.

These provisions, however, refer to uniformity in the application of laws,

not to the right of individuals to refuse to deal with others. As stated in Michigan Law and Practice, Const. Law, § 202, pages 156, 157:

"State action within the Fourteenth Amendment refers to exertions of state power in all forms. Thus, the action of state courts and their judicial officers in their official capacity is regarded as action of the state within the Amendment. State judicial action is not immunized from operation of the Amendment simply because it is taken pursuant to the state's common law policy. Also, the equal protection clause of the Fourteenth Amendment is not ineffective simply because the particular pattern of discrimination which the state enforced was defined initially by the terms of a private agreement, although the Amendment erects no shield against merely private contracts, however discriminatory or wrongful."

Another act relevant to your question is 1931 PA 328, § 146; MCLA 750.146; MSA 28.343 which provides:

"All persons within the jurisdiction of this state shall be entitled to full and equal accommodations, advantages, facilities and privileges of inns, hotels, motels, government housing, restaurants, eating houses, barber shops, billiard parlors, stores, public conveyances on land and water, theatres, motion picture houses, public educational institutions, in elevators, on escalators, in all methods of air transportation and all other places of public accommodation, amusement, and recreation, subject only to the conditions and limitations established by law and applicable alike to all citizens and to all citizens alike, with uniform prices. Rooming facilities at educational, religious, charitable or non-profit institutions or organizations, and restrooms and locker room facilities in places of public accommodation may be separated according to sex."

It will be noted, however, that the act fails to include auto-rental companies within its compass. It is therefore necessary to apply the principle that the legislature's enumeration of specific objects or things indicates its intention to exclude others and conclude that auto-rental companies are not prohibited by this statute from refusing to rent to persons between the age of 18 to 21. It follows, then, and it is my opinion that it is not illegal for a firm engaged in auto rental to refuse to rent to persons between the ages of 18 and 21.

FRANK J. KELLEY,
Attorney General.