

Opinion No. 46-4927

July 19, 1946

BY: C. C. McCULLOH, Attorney General

TO: Mr. J. B. Mitchell, Com'r. Motor Vehicle Department Bureau of Revenue Santa Fe, New Mexico. Attention: Mr. C. M. Page, Acting Chief Clerk

{*251} In your letter of July 17, 1946 you request an opinion of this office as to whether it is legal for the Motor Vehicle Division to issue a certificate of title upon a vehicle coming into New Mexico from a nontitle state, when the applicant cannot present bills of sale showing chain of title from the original dealer to the first purchaser, and on down to the applicant, but presents only the certificate of registration from the non-title state.

In view of the manner in which your question is stated, I am not able to give you an affirmative or negative answer directed to the complete question. However, I shall set out the pertinent provisions of the New Mexico Uniform Motor Vehicle Anti-Theft Act and the requirements which I believe are necessary before you can issue a certificate of title on a vehicle which has come into New Mexico from a **non-title state**.

Sec. 2, Ch. 140 N.M. Session Laws 1941 (Sec. 68-104 (a), 1941 Comp.) provides, in part, as follows:

"APPLICATION FOR A CERTIFICATE OF TITLE. -- (a) The application for a certificate of title shall be made upon the appropriate form furnished or approved by the department and shall contain a full description of the motor vehicle including the name of the maker, the engine and serial numbers and any distinguishing {*252} marks thereon and whether the vehicle is new or used, together with a statement of the applicant's title and of any liens or encumbrances upon said vehicle and the name and address of the person to whom the certificate of title shall be delivered and such other information as the department may require.

Whenever application shall be made by a transferee of any vehicle, the application shall be accompanied by a bill of sale from the former registered owner or by transfer of title endorsed on the reverse side of the certificate of title.

Whenever application shall be made by the owner of a vehicle not registered in this state, but which had been previously registered in another state, the application shall be accompanied by the certificate of title or registration from such other state together with an affidavit by the former registered owner setting forth any liens or encumbrances against such vehicle. * * *"

In order to carry out what purports to be the purpose of the New Mexico Motor Vehicle Uniform Anti-Theft Law, the above cited paragraphs should be construed together. In the absence of such a construction, a transferee who applies for a certificate of title to a

vehicle previously registered in New Mexico, is placed in a position of offering, what appears to me to be more definite proof of ownership than a transferee who applies for a certificate of title to a vehicle previously registered in a non-title state.

Construing the above cited paragraphs together, the result is that before the Motor Vehicle Division can issue to a transferee a certificate of title on a vehicle which has come into New Mexico from a non-title state, the following must be presented by the applicant:

1. An application for a certificate upon the appropriate form furnished by the Department.
2. A bill of sale to the applicant from the former registered owner.
3. A certificate of registration from such other non-title state.
4. An affidavit by the former registered owner setting forth any liens or encumbrances against such vehicle.

The answer to the first part of your question is that an applicant for a certificate of title on a vehicle from a non-title state need not present bills of sale from the first seller as a dealer, to the first purchaser, and on down through chain of title to the applicant. The only bill of sale which the applicant need present is a bill of sale from the former registered owner to applicant.

As to the last part of your question, it is my opinion that you are not authorized to issue a certificate of title when the applicant presents only a certificate of registration of the non-title state without accompanying that certificate of registration with a bill of sale and an affidavit from the former registered owner, as set out above.

By WM. R. FEDERICI,

Asst. Atty. General