

Opinion No. 37-1673

June 10, 1937

BY: FRANK H. PATTON, Attorney General

TO: Works Progress Administration Santa Fe, New Mexico. Attention: Mr. John I. Hinkle, Assistant Office Manager.

{*121} This is to acknowledge receipt of your letter of June 9th wherein you make the following inquiry:

"We should like to know whether or not the bill of sale constitutes legal ownership, or if a current certificate of registration is required in order to make the title of an automobile valid, in addition to the bill of sale."

Please be advised that legal ownership of an automobile passes in the same way as legal ownership of any other article of personal property, and a bill of sale is the usual instrument used in transferring such title.

However, since automobiles are the subject of statewide regulation, our law does provide that before any department charged by law with the duty of registering motor vehicles shall register or renew the registration of any motor vehicle, the owner shall make application for and be granted an official certificate of title for such vehicle, or present satisfactory evidence that a certificate of title for such vehicle has been previously issued to such owner by the department. See Article VI of Chapter 11 of the New Mexico Statutes Annotated, 1929 Compilation.

You look to the registration certificate merely to determine whether or not the particular automobile is properly licensed, etc. to travel on the New Mexico highways, but you must look to the bill of sale or the certificate of title to determine ownership of the automobile. There may even be cases where ownership may be established without either a certificate of title or bill of sale. I am familiar with no law absolutely requiring that a bill of sale be executed upon the transfer of title of such automobile, although there is such a provision with reference to certificates of title. Ownership of an automobile, like ownership of any other article of personal property, is a question of fact governed entirely by the intention of the parties making the transfer, and a bill of sale or any other instrument is merely written evidence of what the parties intended. I would say, however, that if a person had a duly executed bill of sale, properly describing a certain automobile, and in the absence of some contrary showing, that person has title to said automobile.

Trusting the foregoing sufficiently answers your inquiry, I am

By FRED J. FEDERICI

Asst. Atty. Gen.