

**Opinion No. 44-4463**

February 23, 1944

**BY:** EDWARD P. CHASE, Attorney General

**TO:** Honorable John J. Dempsey, Governor of New Mexico, Santa Fe, New Mexico

We have your letter of February 21, 1944, in which you state:

"This office has been contacted by the U.S. Border Patrol (working under the Immigration Service) regarding a block of twenty license plates."

You ask our opinion concerning whether or not the State of New Mexico may legally issue such plates to the U.S. Border Patrol at no cost to the Federal Government.

Section 68-237 of the N.M. 1941 Compilation provides:

"Motor vehicles or trailers owned by and used in the service of \* \* \* the United States \* \* \* need not be registered but must continually display plates or signs plainly setting forth the name of \* \* \* the Government in whose service they are operated. It shall be unlawful for any person to operate, or transport any such vehicle upon any highway in this state or display such plates or signs without authority from such \* \* \* government; provided that such plates and signs shall not be used for any but vehicles owned by \* \* \* the United States or any other state or county."

In view of the foregoing, it is clear that the automobiles operated by the U.S. Border Patrol are not subject to our registration and licensing fees, and need not be registered. It is, therefore, my opinion that since the vehicles operated by the Federal Government are not subject to our licensing fees, that it would violate no provision of our automobile licensing laws to furnish free of charge license plates.

The question arises concerning the provisions of the above quoted section, which states that motor vehicles owned by the United States must continually display plates or signs plainly setting forth the name of the Government in whose service they are operated. Insofar as this section would interfere with a legitimate Government function or investigation it is, of course, of no effect, and need not be considered. Therefore, the U.S. Border Patrol may cover up its Federal identification by a New Mexico or other state license when making investigations which it is required to make which render it advisable to disguise the Federal ownership to effectively make such investigations without violating any statute of this state.

The purpose of Section 68-237 of the N.M. 1941 Compilation in providing that vehicles within such act must be identified, was to prevent any evasion of our registration laws. This purpose is effectuated by issuing a block of plates to the U.S. Border Patrol, the numbers of which will make it apparent to our State Police that such vehicles are, in

fact, Government owned, and therefore this procedure will substantially comply with Section 68-237 of the N.M. 1941 Compilation.

Trusting that the foregoing sufficiently answers your inquiry, I am

By HARRY L. BIGBEE,

Asst. Atty. General