

Opinion No. 54-5894

January 22, 1954

BY: RICHARD H. ROBINSON, Attorney General

TO: Mr. Tony Mignardot Assistant Commissioner Motor Vehicle Division Bureau of Revenue Santa Fe, New Mexico

Extra Copy

OPINION

{*331} On December 31, 1953, you addressed an inquiry to this office concerning § 68-2023 in the 1953 Supplement to the 1941 New Mexico Compilation, which reads as follows:

§ 68-2023. NEW ORDER TO SECURE TRANSFER OF REGISTRATION AND NEW CERTIFICATE OF TITLE. -- Except as otherwise, provided, the transferee within 15 days after a transfer shall:

(a) Submit to the division the current registration evidence and the certificate of title properly endorsed and assigned as in this act (§§ 68-1801 -- 68-1823, 68-1901 -- 68-1916, 68-2001 -- 68-2012, 68-2014 -- 68-2081) provided.

(b) Apply for transfer of registration and issuance of new certificate of title.

Failure to apply for transfer of registration and issuance of new certificate of title within fifteen (15) days from the date of transfer shall subject transferee to a penalty of ten dollars (\$ 10.00), which penalty shall be collected by the division and shall be in addition to other fees provided by law."

You request an opinion as to the right of your office to assess the \$ 10.00 penalty for failure to submit a completed registration and certificate of title fully endorsed and assigned when the person does apply for such transfer of title within fifteen days but wherein some defect is apparent in the application.

It appears to us that sub-section (b) is the provision against which the penalty is assessed. Thus, if the person does apply within fifteen days but does not have a completed registration or some defect is within his registration, we believe that he has met the requirements and is not subject to the penalty. However, we do believe that some evidence of title must be submitted to the Motor Vehicle Division within fifteen days {*332} and that the mere application without any evidence of title or without a current registration would not be sufficient.

The possibility of a defect appearing in the title to an automobile and not becoming evident to the purchaser within the fifteen day period, such a defect being called to the attention of the person by the Motor Vehicle Division, would seem to preclude the perfect title submission being necessary.

Therefore, it is the opinion of this office that if a person applies for a transfer of registration and issuance of a new title certificate within fifteen days after transfer, no penalty should be assessed against the applicant.

By: Fred M. Standley

Assist. Attorney General