

Opinion No. 65-68

April 23, 1965

BY: OPINION OF BOSTON E. WITT, Attorney General Wayne C. Wolf, Assistant Attorney General

TO: Mr. Kenneth E. Beck, Assistant District Attorney, Eighth Judicial District, Clayton, New Mexico

QUESTION

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During the period of time between January 1 and March 2 of each year, may the Motor Vehicle Department require the registration of a motor vehicle for the coming year if an application is made to transfer a title or record or release a lien on the same vehicle during this period of time preceding March 2 of each year?

CONCLUSION

See analysis.

OPINION

{*116} ANALYSIS

Section 64-5-1 New Mexico Statutes Annotated, 1953 Compilation expressly provides that the motor vehicle department may require registration for the coming year if a certificate of title has never been issued on a particular motor vehicle and it has never been registered before. This authority is contained in subsection (c) of Section 64-5-1, supra, which reads as follows:

"If the vehicle is of a type subject to registration hereunder but has not been registered, and no certificate of title has been issued therefor, then the certified copy of the instrument creating such lien or encumbrance shall be accompanied by an application by the owner in usual form for an original registration and issuance of an original certificate of title. In every such event such application shall be accomplished by the fee or fees as provided in this act."

As quoted subsection indicates, this authority in the Motor Vehicle Department is limited to vehicles which have not been registered and for which no certificate of title has been issued. Vehicles previously registered and for which a certificate of title has been issued are in a different category.

Turning them to Section 64-3-14 New Mexico Statutes Annotated, 1953 Compilation (P.S.) we find that the owner of a vehicle is given until March 2 of each year to renew the registration of his motor vehicles.

With respect to the transfer of title, upon receipt of current registration evidence, an endorsed certificate of title and a proper application for registration or transfer of registration, the Motor Vehicle Department is required to re-register a vehicle and issue a new certificate of title. Section 64-4-8 New Mexico Statutes Annotated, 1953 Compilation.

Considering first the problem of recording or releasing a lien, we note that there is no requirement in the statute that any evidence of registration should be submitted with the document creating the lien or release of lien, if the vehicle has been registered. **Of** course, as mentioned earlier, if the vehicle has not been registered, then the instrument creating or replacing the lien must be accompanied by an original application for registration. Considering the fact that registration evidence is not required when the application for a lien is submitted and the fact that Section 64-3-14, *supra*, permits registration renewal as late as March 2 of each year, we are of the opinion that the Motor Vehicle Department may not require an application for renewal {**117*} of registration to accompany the lien or release of lien.

Upon the transfer of title to a vehicle, however, the Motor Vehicle Department may require that the application for transfer be accompanied by current registration evidence, Section 64-4-3 N.M.S.A., 1953 Compilation. If the transfer occurs during the period between January 1 and March 2 of the year a question arises about whether registration for the previous year is current or whether only renewal of registration could constitute current registration evidence.

There is no doubt that all vehicle registrations expire on December 31 of each year. See Section 64-3-14, *supra*. The renewal deadline, however, is March 2, and during the two and one-half-month period between December 15 and March 2, it is permissible to operate a vehicle under a registration for either the calendar year ending on December 31 of that period or the calendar year beginning on January 1 of that period. Under these circumstances we can only conclude that a registration for either of these years is current during the 2 1/2-month period between December 15 and March 2. See Section 64-3-14, *supra*.