



OFFICE OF THE ATTORNEY GENERAL OF TEXAS

AUSTIN

Garrison Co

GERALD C. MANN
ATTORNEY GENERAL

Honorable Homer Garrison, Jr.
Director, Department of Public Safety
Camp Mabry
Austin, Texas

Dear Sir:

Attention: Fred Hickman, Acting
Chief Certificate of
Title Section.

Opinion No. O-2693
Re: Revocation of certificates of
title under Article 1436-1,
V.A.P.C. of Texas.

We acknowledge receipt of your letter dated August 30, 1940, in which you request the opinion of this Department as to the authority of the Department of Public Safety to cancel certificates of title obtained without revealing that previous title has been issued or without revealing the existence of liens noted on previous title certificates issued by the Department.

The applicable portion of Section 38, Article 1436-1, Vernon's Annotated Penal Code, reads as follows:

"Sec. 38. The Department shall refuse issuance of a certificate of title, or having issued a certificate of title, suspend or revoke the same, upon any of the following grounds:

"(a) That the application contains any false or fraudulent statement, or that the applicant has failed to furnish required information requested by the Department, or that the applicant is not entitled to the issuance of a certificate of title under this Act." (Emphasis ours)

"(b) That the Department has reasonable ground to believe that the vehicle is a stolen or converted

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vehicle as herein defined, or that the issuance of a certificate of title would constitute a fraud against the rightful owner of a mortgagee."
(Emphasis ours)

Under the sections above quoted, it is the opinion of this Department that the Department of Public Safety is authorized to cancel or to revoke a certificate of title which does not contain the information requested in the application. Further, if it appears from the records of the Department of Public Safety that the issuance of a certificate will operate as a fraud against a mortgagee or the owner, it is the duty of your Department to refuse to issue a certificate, or, having erroneously issued one, to revoke or suspend it.

Yours very truly

ATTORNEY-GENERAL OF TEXAS

By *Ross Carlton*
Ross Carlton
Assistant

RC:N

RECEIVED SEP 10, 1940

Gerald C. Mann
ATTORNEY GENERAL OF TEXAS

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