



OFFICE OF THE ATTORNEY GENERAL OF TEXAS
AUSTIN

GERALD C. MANN
ATTORNEY GENERAL

Honorable D. C. Greer
State Highway Engineer
Texas Highway Department
Austin, Texas

Dear Sir:

Opinion No. 0-3220

Re: May an individual who operates a business under a trade name obtain certificates of title to and register motor vehicles used in such business under its trade name?

We are returning herewith the correspondence which you attached to your request of March 13, 1942, on the above question.

We note in the information given that the individual in question is well-known as the owner and operator of "White and Blue Cab Company," that he has testified to such ownership on at least one occasion, and is the owner of the vehicles mentioned.

We are unable to find any authorities in Texas on the precise point in question but do find authorities from other jurisdictions which interpret what appear to be similar registration laws.

The following authorities uphold registration of motor vehicles by the owner thereof in the trade name of his business in which such vehicles are used.

In Huddy, Cyclopedia of Automobile Law (9th Ed.), Vol. 1-2, Section 164, page 371, it is said:

"Inasmuch as a corporation, firm or individual may adopt a trade-name under which business may be transacted, a registration in the name so adopted may be proper, except that, of course, a fictitious name cannot be adopted by an individual, under the guise of a trade-name, for the purpose of concealing his identity. So a plaintiff who has thus registered his automobile may recover for injuries due

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to the negligence of another, and his right to recover will not be defeated by the fact that the plaintiff has failed to comply with a statute requiring a certificate of certain facts to be filed by such a trader, the statute being intended solely for the information and the protection of creditors with whom he might contract."

In *Berry on Automobiles*, (6th Ed.) Vol. 1, Section 295, page 266, it is further said:

"Under a statute providing that an application for the registration of a motor vehicle may be made by the owner, and requiring the application to contain a statement of the name, place of residence, and address of the applicant, an application by an owner giving a fictitious partnership name, under which he had been conducting business for many years and was well-known, was held to be sufficient compliance. It was further held immaterial that such owner had not complied with a statute requiring that individuals engaged in business under names other than their own shall file with the clerk of the city or town in which the place of business is situated, a certificate stating the full name and residence of each person by whom it is conducted.

"The court declared, however, that registration under a fictitious name adopted for the purpose of concealing identity would not be a compliance with the statute, 'because the record would not show, nor the certificate contain, a descriptive statement by which the true owner could be ascertained.' *Compton v. Williams*, 216 Mass. 184, 103, N. E. 298. See also *Skene v. Graham*, 100 Atl. 938, *Furtado v. Humphrey*, 188 N. E. 391; *Brewer v. Hayes*, 188 N. E. 600."

We call your attention to the fact that the statutes concerning the registration of automobiles (6675a, R.C.S.) and the Certificate of Title Act (1436-1, P.C.) require the individual owner of a motor vehicle to disclose his identity in the following language:

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Article 6675a-3 provides: "Application for the registration of a motor vehicle . . . shall be signed by the owner of the vehicle, and shall give his name and address in full. . . ."

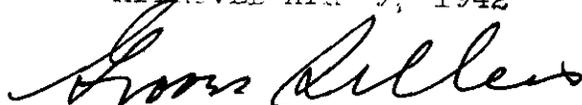
Article 1436-1, Section 24, provides: "The term 'Certificate of Title' . . . must give:

"(1) A space for the signature of the owner and the owner shall write his name . . . in such space. . . ."

Article 1436-1, Section 33, provides: "No motor vehicle may be disposed of . . . unless the owner designated . . . shall transfer the certificate of title on form . . . which form shall include . . . an affidavit to the effect that the signer is the owner of the motor vehicle. . . ."

Since the authorities cited hold that the identity of the owner is the main purpose involved in motor registration statutes and since the Texas statutes dealing with registration and the certificate of title to motor vehicles require that the actual ownership of such vehicles be disclosed in the forms required under each, we believe that the individual in question may register and obtain a certificate of title to motor vehicles operated in his business under the trade name by which such business is known.

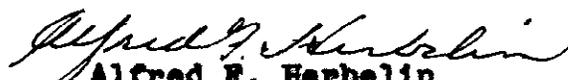
APPROVED APR 9, 1942


FIRST ASSISTANT
ATTORNEY GENERAL

AFH:db

Yours very truly

ATTORNEY GENERAL OF TEXAS

By 
Alfred F. Herbelin
Assistant

