

575.

MOTOR VEHICLE—WHAT BILL OF SALE AND SWORN STATEMENT  
OF OWNERSHIP MUST CONTAIN—AMENDED SENATE BILL NO. 169  
(110 O. L. 399) CONSTRUED.

COLUMBUS, OHIO, July 11, 1923.

HON. JOHN R. KING, *Prosecuting Attorney, Columbus, Ohio.*

DEAR SIR:—Acknowledgment is made of your communication inquiring in reference to the approval of forms of Bill of Sale by the Attorney General as provided in section 6310-13 (a) of the General Code as enacted in Amended Senate Bill No. 169 of the present session of the Legislature. This bill was passed April 5th, 1923, and filed in the office of the Secretary of State April 27th, and will become effective on July 27th, 1923. Technically speaking, of course, the Attorney General would not be required or authorized to officially act until the bill actually becomes effective. However, many inquiries have been received from many sources, official and otherwise, and the department appreciates the practical necessity of having forms approved in advance of the actual taking effect of the law in order that the County Clerks may be prepared to comply with the law upon said date.

In view of this situation it is my desire to co-operate to the end that the law may be complied with without undue delay and inconvenience to those administering the law, and to the public. In view of this situation I shall endeavor to approve proper forms at this time which said approval, of course, will have no legal standing unless the bill becomes operative.

That part of the section heretofore mentioned, material to consider herein, is as follows:

“The clerk of courts shall keep on hand a sufficient supply of blank forms of bills of sale and sworn statements which shall be drawn in accordance with forms approved from time to time by the attorney general and such blank forms of bills of sale and sworn statements shall on request be distributed by the clerk of courts without charge to persons residing within their county.”

At this point it becomes necessary to consider what the Bill of Sale, as required in the act, must contain.

Section 6310-3 defines the term “Bill of Sale” as follows:—

“The term “Bill of Sale” as used in this act shall mean the bill of sale or paper of conveyance issued by the corporation, partnership, association, or person, selling, giving away, transferring, conveying or passing title to a motor vehicle or “used motor vehicle”.

It could be argued that it was the intent of the legislature in this enactment to regard the “bill of sale” or “paper of conveyance” as the evidence of the title conveyed which would require such an instrument to contain the actual transaction. While some expressions in the law would tend to substantiate this view,

upon a careful reading of the entire act and consideration of the purposes intended to be accomplished in the enactment of the same, it is indicated that it was the legislative intent that such bill of sale should be a paper of identification, evidencing the fact of the transfer of the possession rather than a "bill of sale" as the term is generally understood. In support of this view it may be pointed out that the law requires everyone who "obtains" an automobile to get a "bill of sale". It is conceivable that in many instances machines will be "leased", "loaned" or "obtained" under circumstances in which the title, as the term is usually understood, will not pass. However, the burden is upon the person who "obtains" or receives a "motor vehicle" or a "used motor vehicle" to obtain a "bill of sale". If one is bound to acquire such, irrespective of the nature of the contract under which he obtains possession of the machine, then it would seem logical to conclude that such a "bill of sale" relates only to the right of possession and need not contain the actual transaction. If such is not the case, then it would be necessary for a chattel mortgage to be filed with the Clerk of Courts and such an instrument would have to conform to the form approved by the Attorney General.

It is my view that the sole object of this law was to furnish an available record showing a complete identification of an automobile and the person entitled to the possession thereof, to prevent traffic in stolen cars, and that there was no intent to disturb the contractual rights under existing laws, relative to the title and the respective rights of the parties to a transaction. Nowhere in the law is it stated that the "bill of sale" shall evidence the title; and nowhere is it even suggested that the laws relative to conditional sales, contracts or chattel mortgages are to be disturbed.

While the statutes have provided a number of details which such a bill of sale must contain, I shall not discuss the various provisions herein for the reason that the form approved will in itself be explanatory of my interpretation of such requirements.

In view of the foregoing you will find herewith enclosed, which is made a part hereof, forms of "bill of sale, in duplicate" for a used motor vehicle, a "bill of sale, in duplicate" for a motor vehicle, and a "sworn statement of ownership," designated respectively "Exhibit A", "Exhibit B," and "Exhibit C."

"EXHIBIT A"

Approved by the Attorney General July, 1923

BILL OF SALE, in Duplicate.

"Used Motor Vehicle"

Gen'l Code, Sec. 6310-7

Know All Men by These Presents, That<sup>1</sup>-----

Residing at-----

-----  
 the Grantor-----, do-----hereby execute this Bill of Sale in Duplicate and deliver to<sup>2</sup>-----

Residing at-----

-----  
 the Grantee-----, the possession of the following described "Used Motor Vehicle":  
 Manufacturer or Maker-----; Manufacturer's (Factory) No.-----;  
 Engine or Motor No.-----; other numbers-----  
 Horse Power-----; Description of Body-----  
 Make-----; Type-----; Model-----

Other number or marks of identification thereon or on appliances attached thereto,--

Original or first purchaser from the manufacturer or importer or the direct agent of either.

Name<sup>2</sup>..... Residence.....
Occupation.....; Place of business or employment.....
Name of employer (if any).....

Subsequent Purchasers or Owners

Name<sup>2</sup>..... Residence.....
Occupation.....; Place of business or employment.....
Name of employer (if any).....
Name<sup>2</sup>..... Residence.....
Occupation.....; Place of business or employment.....
Name of employer (if any).....
Name<sup>2</sup>..... Residence.....
Occupation.....; Place of business or employment.....
Name of employer (if any).....

Grantor's Title: How acquired.....
Date.....19.....; Place.....
Changes and alterations in finish design or appearance made within knowledge of Grantor .....

(If an imported vehicle, the following must be filled in.)

Importer .....,
City and country of Manufacturer.....
Port of Exportation..... Port of Importation.....

It is mutually understood that the contents, execution, delivery, acceptance of filing of this "bill of sale" in no manner affects or governs the rights, title and interest of either the transferer or transferee in and to the vehicle herein described or referred to, or in and to any chattel mortgage, note paid or unpaid purchase price, lease, lien, insurance policy, conditional sale contract, or any contract or agreement collateral or otherwise of any kind whatsoever, concerning such vehicle; the sole purpose of this "bill of sale" being to comply with Section 6310-3 to 6310-14, inclusive, of the General Code of Ohio, and in order to evidence the fact that possession of such vehicle has changed on this day.

IN WITNESS WHEREOF, the said.....
ha.....hereunto set.....h.....hand this.....day of.....19.....

Witnessed by

.....

.....

Grantor.....

.....

Grantee.....

1. Here insert the name and residence, giving City, Village or Township, County and State, with street and number, if any, or post office address of each Grantor.
2. Here insert same as to each Grantee.

OATH

The State of Ohio,-----County, ss.

-----being duly sworn says that-----he is  
1-----the grantor-----of the within described  
Vehicle and that the statements in the foregoing Bill of Sale are in all respects true  
and correct as-----he verily believes.

Sworn to before me and signed in my presence this-----day of-----19-----

-----County, Ohio.

1. Here insert, if so, "Agent of----- (give name)."

PENALTIES FOR FAILURE TO COMPLY WITH LAW IN SALE AND  
PURCHASE OF A MOTOR VEHICLE

1. Driving vehicle upon public highways without having a "Bill of Sale" as defined by law, or without having first filed with the Clerk of Courts a sworn statement of ownership and obtained a certified copy of same. Penalty—Fine \$25.00 to \$5000.00.

2. To transfer a motor vehicle except by "Bill of Sale," as defined by law, or to obtain a motor vehicle without receiving the "Bill of Sale," as defined by law. Penalty—Fine \$25.00 to \$5000.00.

3. The grantor must execute "Bill of Sale" in presence of two witnesses and verify before Notary Public or other person authorized by law to administer oaths and grantee must sign the same. Penalty—Fine \$25.00 to \$5000.00.

4. For failure of grantee to file copy of "Bill of Sale" with Clerk of Courts within three days after receiving same. Penalty—Fine \$25.00 to \$5000.00.

5. The original "Bill of Sale" must be delivered to a future grantee. Penalty—Fine \$25.00 to \$5000.00.

6. Unlawful for grantor to misrepresent in "Bill of Sale" or "Sworn Statement" any fact or to forge, change or counterfeit any part thereof. Penalty—Fine \$50.00 to \$5000.00 or imprisonment in Ohio Penitentiary not more than five years or both.

No.-----

Original Bill of Sale No.-----

-----County, Ohio.

BILL OF SALE

In Duplicate

"Used Motor Vehicle"

Make-----

Type-----

Model-----

-----

-----

Grantor--

TO

-----

-----

Grantee--

Filed -----192-----

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Clerk of Courts,

-----County, Ohio.

By -----Deputy.

[L. S.]

"EXHIBIT B"

Approved by the Attorney General July 1923

BILL OF SALE, in Duplicate.

New Motor Vehicle

Gen'l Code, Sec. 6310-5.

Know All Men by These Presents, That<sup>1</sup>-----

Residing at -----

-----  
the Grantor-----, do-----hereby execute this Bill of Sale in Duplicate and deliver  
to<sup>2</sup> -----

Residing at-----

-----  
the Grantee-----, the possession of the following described Motor Vehicle;  
Manufacturer or Maker-----; Manufacturer's (Factory) No.-----;  
Engine or Motor No.-----; other numbers-----  
Horse Power-----; Description of Body-----  
Make-----; Type-----; Model-----  
Other number or marks of identification thereon or on appliances attached thereto,--  
-----

It is mutually understood that the contents, execution, delivery, acceptance or  
filing of this "bill of sale" in no manner affects or governs the rights, title and  
interest of either the transferer or transferee in and to the vehicle herein described  
or referred to, or in and to any chattel mortgage, note, paid or unpaid purchase  
price, lease, lien, insurance policy, conditional sale contract, or any contract or agree-  
ment collateral or otherwise of any kind whatsoever, concerning such vehicle, the  
sole purpose of this "bill of sale" being to comply with Section 6310-3 to 6310-14,  
inclusive, of the General Code of Ohio, and in order to evidence the fact that  
possession of such vehicle has changed on this day.

IN WITNESS WHEREOF, the said-----

-----  
ha-----hereunto set-----h-----hand this-----day of-----19-----

Witnessed by

-----  
-----

-----  
-----  
-----

Grantor-----

-----  
-----

Grantee-----

1. Here insert the name and residence, giving City, Village or Township, County and State, with street and number, if any, or post office address of each Grantor.  
2. Here insert same as to each Grantee.

OATH

The State of Ohio, \_\_\_\_\_ County, ss.

\_\_\_\_\_ being duly sworn says that \_\_\_he is \_\_\_\_\_ the grantor \_\_\_of the within described Vehicle and that the statements in the foregoing Bill of Sale are in all respects true and correct as \_\_\_he verily believes.

Sworn to before me and signed in my presence this \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_

\_\_\_\_\_ County, Ohio.

1. Here insert, if so, "Agent of \_\_\_\_\_ (give name)."

PENALTIES FOR FAILURE TO COMPLY WITH LAW IN SALE AND PURCHASE OF A MOTOR VEHICLE

1. Driving vehicle upon public highways without having a "Bill of Sale" as defined by law, or without having first filed with the Clerk of Courts a sworn statement of ownership and obtained a certified copy of same. Penalty—Fine \$25.00 to \$5000.00.

2. To transfer a motor vehicle except by "Bill of Sale," as defined by law, or to obtain a motor vehicle without receiving the "Bill of Sale," as defined by law. Penalty—Fine \$25.00 to \$5000.00.

3. The grantor must execute "Bill of Sale" in presence of two witnesses and verify before Notary Public or other person authorized by law to administer oaths and grantee must sign the same. Penalty—Fine \$25.00 to \$5000.00.

4. For failure of grantee to file copy of "Bill of Sale" with Clerk of Courts within three days after receiving same. Penalty—Fine \$25.00 to \$5000.00.

5. The original "Bill of Sale" must be delivered to a future grantee. Penalty—Fine \$25.00 to \$5000.00.

6. Unlawful for grantor to misrepresent in "Bill of Sale" or "Sworn Statement" any fact or to forge, change or counterfeit any part thereof. Penalty—Fine \$50.00 to \$5000.00 or imprisonment in Ohio Penitentiary not more than five years or both.

No. \_\_\_\_\_

\_\_\_\_\_ County, Ohio.

BILL OF SALE In Duplicate New Motor Vehicle

Make \_\_\_\_\_ Type \_\_\_\_\_ Model \_\_\_\_\_

Grantor \_\_\_\_\_

TO

Grantee \_\_\_\_\_

Filed \_\_\_\_\_ 192\_\_\_\_\_

Clerk of Courts, \_\_\_\_\_ County, Ohio.

By \_\_\_\_\_ Deputy.

“EXHIBIT C”

Approved by the Attorney General July 1923

SWORN STATEMENT

Of Ownership. Motor Vehicle.

(To be filed with County Clerk, Copy certified.)

Gen'l Code, Sec. 6310-13.

The State of Ohio,-----County, ss.

-----, first being duly sworn, deposes and says that the following-----the name-----and residence----- of each and every bona fide owner of the Motor Vehicle hereinafter described:

Name----- and Residence----- of Owner

Name\* -----  
Residence -----  
-----  
-----  
-----  
-----  
-----

Description of Motor Vehicle

Manufacturer or Maker-----  
Manufacturer's (Factory) Number-----; Engine or Motor Number-----;  
Other numbers thereon-----  
Horse Power-----; General Description of Body-----  
Make-----; Type-----; Model-----  
Other number or marks of identification thereon or on appliances attached thereto,--  
-----  
-----

Sworn to before me and signed in my presence this-----day of  
-----19-----

-----County, Ohio.

\* Insert the name and residence, giving City, Village or Township, County and State, with street and number, if any, or postoffice address of each and every bona fide owner.

PENALTIES FOR FAILURE TO COMPLY WITH LAW IN SALE AND PURCHASE OF A MOTOR VEHICLE

1. Driving vehicle upon public highways without having a "Bill of Sale" as defined by law, or without having first filed with the Clerk of Courts a sworn statement of ownership and obtained a certified copy of same. Penalty—Fine \$25.00 to \$5000.00.

2. To transfer a motor vehicle except by "Bill of Sale," as defined by law, or to obtain a motor vehicle without receiving the "Bill of Sale," as defined by law. Penalty—Fine \$25.00 to \$5000.00.

3. The grantor must execute "Bill of Sale" in presence of two witnesses and verify before Notary Public or other person authorized by law to administer oaths and grantee must sign the same. Penalty—Fine \$25.00 to \$5000.00.

4. For failure of grantee to file copy of "Bill of Sale" with Clerk of Courts within three days after receiving same. Penalty—Fine \$25.00 to \$5000.00.

5. The original "Bill of Sale" must be delivered to a future grantee. Penalty—Fine \$25.00 to \$5000.00.

6. Unlawful for grantor to misrepresent in "Bill of Sale" or "Sworn Statement" any fact or to forge, change or counterfeit any part thereof. Penalty—Fine \$50.00 to \$5000.00 or imprisonment in Ohio Penitentiary not more than five years or both.

The State of Ohio,-----County, ss.

I, the undersigned Clerk of Courts of said County, hereby certify that the foregoing is a true and correct copy of the sworn statement filed with me-----  
19\_\_\_.

WITNESS my signature and official seal, this-----  
day of-----19\_\_\_

-----  
Clerk of Courts.

[L. S.]

No.-----

**SWORN STATEMENT**

**Of Ownership. Motor Vehicle.**

(Copy certified.)

Make-----

Type-----

Model-----

Name-----

Address-----

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-----

Filed -----192-----

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Clerk of Courts,  
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It is believed that the forms enclosed will substantially comply with the law and they are hereby approved. It may be pointed out that nothing herein is intended to disapprove any other form which may be used and which may vary in some details but which contains the substance of the approved form. In other words, every form used should have all the information required in the approved forms and the clerk should distribute forms in accordance with this approval. However, in the event that a bill of sale should be presented to the Clerk of Court which contains more explanatory details in reference to the consideration, etc., and the nature of the agreement, including warranties, etc., and used for the purpose of showing the actual transactions, but which otherwise contains all of the matters required in the approved form, there would be no reason why such a bill of sale should not be accepted when presented to the Clerk of Court, the



same as a form which has been approved by the Attorney General and distributed by the clerk.

It may be noted at this time that there have been some queries presented in reference to the amended act as to the application of the term "motor vehicle" and "used motor vehicle" as defined in the act. It has been contended by some that no motor vehicle or used motor vehicle comes under the term of this act in view of the definitions excepting a new car transferred after the act takes effect. In other words, it has been claimed that the definition for a used motor vehicle by quoting "motor vehicle" has the effect of limiting a used motor vehicle to such automobiles as have been "motor vehicles" as defined in the act.

I cannot concur in this construction although I can see the point made. Such a construction would be exceedingly narrow and produce absurd results and defeat the apparent intention of the legislature. It is evident from the purpose of the act that the use of the term "motor vehicle" in the definition for a "used motor vehicle" did not relate solely to the technical use of the term in the former definition. It is believed that this refers to the definition in section 6290 and the definition in the original act. While this is a criminal statute entitled to a strict construction yet it should be fairly construed. Therefore, it is concluded that the term "used motor vehicle" in the amended law will include every automobile other than newly manufactured automobiles sold or distributed after the taking effect of this act.

In view of this conclusion it is evident that a sworn statement will be required to be filed by those who were exempted by the original law from the filing of such statements.

However, it should be further pointed out that no sworn statement will be required in those instances in which bills of sale have previously been required.

Respectfully,

C. C. CRABBE,

*Attorney-General.*

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576.

APPROVAL, CONTRACT BETWEEN STATE OF OHIO AND LORD AND BURNHAM COMPANY, OF CLEVELAND, OHIO, CONSTRUCTION AND COMPLETION PROPAGATING HOUSE, LIMA STATE HOSPITAL, AT A COST OF \$2,440.00.

COLUMBUS, OHIO, July 11, 1923.

HON. L. A. BOULAY, *Director, Department of Highways and Public Works, Columbus, Ohio.*

DEAR SIR:—You have submitted for my approval contract between the State of Ohio, acting by the Department of Highways and Public Works, and Lord and Burnham Company of Cleveland, Ohio. This contract covers the construction and completion of Propagating House, Lima State Hospital, Lima, Ohio, and calls for an expenditure of \$2,440.00.

You have submitted the certificate of the Director of Finance to the effect that there are unencumbered balances legally appropriated in a sum sufficient to cover the obligations of the contract.