

THINGS TO CONSIDER...

## Important Information Regarding Historic Vehicle Titling, Relating To Financial And Estate Planning

Let's face it, sooner or later we will all 'shuffle off this mortal coil'. When this happens, will your spouse or the executor of your estate know what to do with your automobile or other collections? What about the title and or lien releases for your vehicle or vehicles? Do they even know where these documents are and how to gain access? Can a title be transferred to another member of the family? Will a copy of the death certificate be required? If sold, how is the title reassigned to the prospective buyer. In the article below, Chesapeake Region Member, Ralph Stroud addresses some of these questions.

**By Ralph Stroud**

At the AACA Annual Meeting February 2013, there was a seminar 'Your Cars, Your Estate Planning' by Tony Monopoli (appraiser) and Bryan Shook (lawyer). The session ended up dealing primarily with vehicle title questions and experiences. The goal of this article is to capture some of the interesting questions which you might experience.

You need to make your own determination what is best for your situation. The intent of this article is to provide general information for consideration. Bryan W. Shook (lawyer) is a possible source of legal information dealing with vintage cars whose email address is (bshook@dplglaw.com) and website is <http://www.vintageautomotive.net/>

1. When a car is sold, should the name of the buyer be placed on the title with the date of sale?

1. Yes, the name of the buyer should always be placed on the title when the car is sold along with the date of the sale and the mileage reflected on the vehicle's odometer (if applicable). In most instances, the seller's signature will need to be notarized, so it is good habit to fill in the buyer's information when the seller is completing his portion 1."
2. If the buyer's name and date of purchase is not on the title, what would happen if there was an incident such as the car accidentally rolled into another vehicle possibly a couple months later with a personal injury and the new owner claimed it was not his car?

It will help to have a copy of the title with the buyer's name, but legally you may have to hire an attorney to represent you in court, if it goes that far, to ensure you have no liability<sup>1</sup>."

3. After purchasing a car, should the title be processed soon after buying the car?

Yes, the title should be processed immediately. In most states the title must be submitted to the Department of Motor Vehicles within 20-30 days of the sale. Failure to do so is usually a criminal offense<sup>1</sup>."

4. How does one resolve a lien or other issue in transferring a title, waits several years, and the buyer is deceased?

1. Yet another reason to do the title work when you purchase the vehicle. One of the main reasons that I hear why someone did not process the title work is that they did not want to pay the sales tax on the purchase. This is foolish and shortsighted. The sales tax is a small price to pay for the peace of mind knowing that you have a good clean certificate of title to the vehicle in your garage<sup>1</sup>."
2. I sold a Model A over 20 years ago which needed significant work, and the fellow recently called because there was not a price indicated on the signed title. It turned out that Virginia wanted to charge an excessive tax as if the car was restored in order to process the title. The new owner had retired from the service and was ready to start restoring the Model A. Somehow, he found my phone number, and I sent him a bill of sale for \$280.

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5. Should you sign a title and not date the title after buying a new vehicle?

1. No. Do not sign the title unless and until you are selling the vehicle. There is no benefit to signing the title prior to this time. Also, you cannot sign most current state's titles without your signature being notarized. When you sign the title and the buyer is left blank, the title is technically "open" and anyone can put their name as the buyer and submit the title to the DMV as if they bought the car. If this happens, good luck trying to get it unwound and explaining to the DMV that you allowed the title to sit "open" for all that time<sup>1</sup>."

6. Are there issues signing the title and indicating a date should the owner pass prior to the date the title is recorded?

1. Never sign the back of a title unless and until you are selling the vehicle. If you present a title to the DMV and the seller, who signed the title sometime before his death, is dead, you are making a false representation to the DMV that you purchased the car from the seller who signed it within so many days of the transfer and accordingly you could be held criminally liable for making such a representation. The proper way is to have the executor of the estate make the transfer to you. If you buy a car out of an estate and the back of the title is signed by the dead person, the heirs of that dead person could come back on you and make a claim for the car because the executor has not, nor have the heirs technically authorized the sale<sup>1</sup>."

2. I attended an estate auction, and a number of cars were sold at a much lower price 'with no title' because the dead person had signed the title.

7. Are there any online sites to check a title?

1. The National Motor Vehicle Title Information System (NMVTIS) is an electronic system that contains information on certain automobiles titled in the US. All states, insurance companies, junk and salvage yards are required by federal law to regularly report information, but some information may not be timely or actually be reported by some states. There is a small fee.

<http://www.vehiclehistory.gov/>

2. The National Insurance Crime Bureau (NICB) is a service provided to the public to assist if a vehicle has been reported as stolen, but not recovered, or reported as a salvage vehicle by a cooperating NICB member.

[https://www.nicb.org/theft\\_and\\_fraud\\_awareness/vincheck](https://www.nicb.org/theft_and_fraud_awareness/vincheck)

8. If you don't have a title, should you buy one from a junk car?

1. No, do not buy a title from a box or a junk car. The proper procedure is to petition the court for a declaration of ownership to the car you already have. This is done by reciting the history of the car, as you know it, how you came into possession of the car and why, if you know, it does not have a title. Remember, it is a federal and state offense to tamper with a serial or VIN of a vehicle. This includes having a new data plate made to reflect the VIN of the certificate of title you wish to use to register the vehicle. If your car has no VIN or serial number the proper procedure is to obtain a state issued ID number and have the vehicle titled and registered under that number 1."

NOTE 1: Bryan W. Shook (bio - [http://www.dplglaw.com/pages/attorneys/bryan\\_shook.html](http://www.dplglaw.com/pages/attorneys/bryan_shook.html) )