

DECEMBER 19, 1952.

HON. WILLIAM J. DEARDEN, *Director,*
Division of Motor Vehicles,
State House, Trenton, N. J.

FORMAL OPINION—1952. No. 43.

DEAR SIR:

I have your memorandum of December 10, 1952 in which you refer to the law requiring commercial vehicles exceeding a gross weight of 6,000 pounds to be equipped with mud flaps for operation on the highways in New Jersey on or after January 1, 1953. In addition, you mention R. S. 39:3-15 N. J. S. A. concerning reciprocity granted non-residents. Your question was whether or not you should impose the law requiring mud flaps upon non-resident commercial vehicles of the class designated in the law.

The answer to this question is, Yes.

Chapter 343, Laws of 1952, in section 1 provides:

"No person shall operate or cause to be operated any bus, truck, full trailer or semitrailer of registered gross weight exceeding three tons on any public highway unless the same is equipped with suitable metal protectors or substantial flexible flaps on the rearmost wheels, and, in case the rear wheels are not covered at the top by fender, body or other parts of the vehicle, the rear wheels shall be covered at the top by protective means, of such standard type or design and installed in such manner as shall be approved by the Director of the Division of Motor Vehicles in the Department of Law and Public Safety and as shall conform substantially to any requirements of the Interstate Commerce Commission governing similar subject matter, in order to prevent, as far as practicable, such wheels from throwing dirt, water or other materials on the windshields of the following vehicles, except in cases in which the motor vehicle is so designed and constructed that the above requirements are accomplished by reason of fender or body construction or other means of enclosure; *provided, however,* this act shall not apply to pole trailers, dump trucks, tanks, or other vehicles where the construction thereof is such that complete freedom around the wheel area is necessary to secure the designed use of the vehicle."

You will note that this section makes no distinction between persons operating a New Jersey-registered vehicle and persons operating vehicles registered in a State other than New Jersey.

R. S. 39:3-15 N. J. S. A. cited in your memorandum applies only with respect to registration and is quoted as follows:

"Any passenger type motor car, omnibus, motor vehicle used for transportation of goods, wares and merchandise, motor cycle, or motor-drawn vehicle belonging to a non-resident, and which has been registered in accordance with the laws respecting the registration of motor vehicles of the State, Territory, Federal district of the United States or province of the

Dominion of Canada, or foreign country, in which the non-resident resides, and which has conspicuously displayed thereon the registration number thereof, may, without complying with the provisions of this subtitle with respect to registration, be operated in this State during such portion of the entire year as the free operation of a similar type of vehicle belonging to a resident of this State and registered in compliance with the laws of this State, and whose registration number is conspicuously displayed thereon, is permitted in the State, Territory, Federal district or province of the Dominion of Canada, or foreign country, of the non-resident."

In view of the fact that the commonly-referred-to reciprocity section of Title 39 (R. S. 39:3-15 N. J. S. A.) by its wording applies only "with respect to registration" it does not affect the enforcement of chapter 343, laws of 1952 as above quoted.

Yours very truly,

THEODORE D. PARSONS,
Attorney General.

By: JOHN J. KITCHEN,
Deputy Attorney General

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