

MAY 18, 1953.

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

FORMAL OPINION—1953. No. 22.

DEAR DIRECTOR:

You have asked this office to give you a formal opinion as to whether you could reasonably require a constable serving a levy on a motor vehicle to either take actual possession of the vehicle itself or merely take possession of the certificate of ownership.

The answer to your inquiry is "no."

The manner of seizure of a motor vehicle is provided in R. S. 39:10-15, as amended by chapter 136, P. L. 1946, p. 630, section 11 and is quoted as follows:

"If a motor vehicle is seized, levied upon or attached and taken into possession, actually or constructively, by virtue of judicial process issued by a court of competent jurisdiction in this State, or by virtue of a statute, State, Federal or otherwise, the person from whose possession the motor vehicle was taken, and without prejudice to his rights in the premises, shall surrender the title papers to the commissioner upon written notice or demand from the commissioner. * *"

The above quoted law provides that the seizure, levy or attachment may be "actually or constructively." No provision is made for the constable to secure possession of the certificate of ownership and, on the contrary, the law provides that the owner shall surrender the title papers to the commissioner upon written notice or demand.

Yours very truly,

THEODORE D. PARSONS,
Attorney General,

By: JOHN J. KITCHEN,
Deputy Attorney General.

jjk/n

JUNE 1, 1953.

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

FORMAL OPINION—1953. No. 23

DEAR MR. DEARDEN:

By your memorandum of May 29th you request a formal opinion as to whether a dealer, licensed with a designated place of business may, under the same license, operate branch agencies with a designated place of business at different addresses.

The answer to your question is "No".

R. S. 39:10-2, as amended, defines the word "dealer" as meaning the agent, distributor or authorized dealer of the manufacturer of the new motor vehicle, and who has an established place of business.

The same section defines "used motor vehicle dealer" as meaning a person engaged in the business of selling, buying or dealing in used motor vehicles, and who has an established place of business.

R. S. 39:10-19 provides, among other things:

"No person shall engage in the business of buying, selling or dealing in motor vehicles in this State, unless he is authorized to do so under the provisions of this chapter. The commissioner may, upon application in such form as he prescribes, license any proper person as such dealer.

* * *"

The license fee provided in this latter section is \$100.00.

No provision is made in this law authorizing the director of the Division of Motor Vehicles to permit or recognize the operation of branch agencies at an address other than the dealer's address as designated by such dealer in his application for a license.

Yours very truly,

THEODORE D. PARSONS,
Attorney General,

By: JOHN J. KITCHEN,
Deputy Attorney General.

jjk:n

JUNE 9, 1953.

COLONEL RUSSELL A. SNOOK,
Superintendent of State Police,
Trenton, New Jersey.

FORMAL OPINION—1953. No. 24

DEAR COLONEL SNOOK:

You have requested our opinion as to whether the Division of State Police must hold a hearing before adopting amendments to the regulations governing liquefied petroleum gases pursuant to Chapter 139 of the Laws of 1950. Section 2 of the aforesaid statute authorizes the division to promulgate regulations governing the storage, handling, transportation and utilization of liquefied petroleum gases, and further provides that "such regulations shall be adopted by the Division of State Police only after a hearing thereon".

In my opinion, the requirement of a hearing applies to all amendments as well as to the original regulations. The purpose of the hearing is to allow all interested parties to express themselves as to the merits of the proposed regulation, both in order to give such parties the opportunity to protect their interests and in order that