

SEPTEMBER 27, 1956

HON. FREDERICK J. GASSERT, JR.
Director, Division of Motor Vehicles
 State House
 Trenton, New Jersey

FORMAL OPINION, 1956—No. 21

DEAR DIRECTOR GASSERT:

You have requested our opinion on the applicability of certain provisions of the Security-Responsibility Law and particularly as to whether R.S. 39:6-28, subsection (b) and subsection (c) should be regarded as a reciprocity statute.

R.S. 39:6-28(b) provides:

“When a nonresident’s operating privilege is suspended pursuant to section three or section five of this act the director shall transmit a certified copy of the record of such action to the official in charge of the issuance of licenses and registration certificates in the State in which such nonresident resides, if the law of such other State provides for action in relation thereto similar to that provided for in subsection (c) of this section.”

Subsection (b) is definitely based upon reciprocity because it requires the Director to transmit a certified copy of his official action only “if the law of such other State provides for action in relation thereto similar to that provided for in subsection (c) of this section.”

R.S. 39:6-28 (c) provides as follows:

“Upon receipt of such certification that the operating privilege of a resident of this State has been suspended or revoked in any such other State pursuant to a law providing for its suspension or revocation for failure to deposit security for the payment of judgments arising out of a motor vehicle accident, under circumstances which would require the director to suspend a nonresident’s operating privilege had the accident occurred in this State, the director shall suspend the license of such resident if he was the operator, * * *.”

In both sections (b) and (c) above, it must be noted that the Director of Motor Vehicles of New Jersey is required to act only if the law of the other State concerned contains provisions similar to the New Jersey law for the suspension of the driving privileges of out-of-state drivers for failure to satisfy judgments.

Thus subsection (b) above does not become operative unless the law of the “other State provides for action in relation thereto similar to that provided for in subsection (c) of this section.”

Subsection (c) requires the Director to act where the law of the foreign state provides for revocation or suspension of license “under circumstances which would require the director to suspend a nonresident’s operating privilege had the accident occurred in this State, * * * .”

We find no warrant in the statute for a construction that the Director of the Division of Motor Vehicles is required to suspend a New Jersey resident driver’s

license because of failure to deposit security only in instances where the State where the accident occurred is required to suspend its own resident's driver's license for failure to deposit security under the New Jersey Security Responsibility Law.

Very truly yours,

GROVER C. RICHMAN, JR.
Attorney General

By: JAMES T. KIRK
Deputy Attorney General

JTK/LL

NOVEMBER 16, 1956

MR. SALVATORE A. BONTEMPO
Department of Conservation and Economic Development
State House Annex
Trenton, New Jersey

FORMAL OPINION, 1956—No. 22

DEAR MR. BONTEMPO:

You have requested what you term a clear-cut definition as to New Jersey's boundary in the Delaware Bay and the Delaware River and advise that it is imperative that you obtain our definition because of the current activity in dredging operations in the Delaware River and the Delaware Bay. The explanation that the request has reference to dredging operations indicates that you wish to be informed on the limited topic of the territorial limits and ownership of the State of New Jersey in the soil under both bodies of water mentioned. The two states occupying the shores opposite those of New Jersey along the Delaware River and Bay are Delaware and Pennsylvania. The case with Delaware will be discussed first in view of the fact that the boundary between that state and ours has been the subject of litigation and has been adjudicated. *State of New Jersey v. State of Delaware*, 291 U.S. 361, 54 S. Ct. 407 (1934).

The State of Delaware and the State of Pennsylvania have a common boundary at the point where both states border the Delaware River, and from that point Pennsylvania bounds the Delaware River northwardly, and Delaware southwardly to the sea. In the issues involved in the case of *New Jersey v. Delaware*, sometimes called the Delaware boundary case, the Court characterizes them as follows:

"The controversy divides itself into two branches, distinct from each other in respect of facts and law. The first branch has to do with the title to the bed or subaqueous soil of the Delaware river within a circle of twelve miles about the town of New Castle. Delaware claims to be the owner of the entire bed of the river within the limits of this circle up to low-water mark on the east or New Jersey side. New Jersey claims to be the owner up to the middle of the channel. The second branch of the controversy has to do with the boundary line between the two states in the river below the circle and in the bay below the river. In that territory as in the river above, New Jersey bounds her title by the Thalweg. Delaware makes the division at the geographical center, an irregular line midway between the banks or shores."
54 S. Ct. 408