

The above cited New York statute, known as the "Motor Vehicle Financial Security Act", provides that no motor vehicle shall be registered in New York unless the application for such registration is accompanied by proof of financial security which shall be evidenced by a certificate of insurance, or evidence of a financial security bond, a financial security deposit, or qualification as a self-insurer under the act. Violations of the act are discouraged by the imposition of penalties, but no fund is created to provide a source of recovery for the innocent victims who suffer damage or injury by reason of the operation or use of a motor vehicle without complying with the act by one who is financially irresponsible. The New York statute offers no recourse for those who suffer damage or injury at the hands of a hit and run driver, the operator of a stolen motor vehicle, or the operator of a motor vehicle used without the owner's permission. There is no fund of any kind established under the New York statute; therefore, if damage or injury is caused by the operation or use of a motor vehicle and there is no liability insurance in effect or there is no financial deposit or bond and the person causing the damage or injury is financially irresponsible, the innocent victim has no recourse. Under the New Jersey statute the Unsatisfied Claim and Judgment Fund was created for the express purpose of providing a recourse for these innocent victims. The New York statute attempts to decrease the number of persons who find themselves placed in such a predicament by requiring proof of financial security from all who seek to register a motor vehicle in New York, but no recourse is provided for one who finds himself in a position where financial recovery for his injury or damage is impossible. The New York statute imposes penalties against the wrongdoer but it does not afford relief to the innocent victim.

You are, therefore, advised that Chapter 655 of the Laws of 1956 of the State of New York does not afford to New Jersey residents recourse substantially similar in character to the recourse provided for New Jersey residents by R.S. 39:6-61 to 39:6-91 inclusive and that New York residents therefore fail to meet the statutory definition of qualified persons under the Unsatisfied Claim and Judgment Fund Law.

Very truly yours,

GROVER C. RICHMAN, JR.
Attorney General

By: GEORGE H. BARBOUR
Deputy Attorney General

GHB:jcb

SEPTEMBER 11, 1957

HONORABLE PHILIP ALAMPI, *Secretary*
Department of Agriculture
1 West State Street
Trenton, New Jersey

FORMAL OPINION, 1957—No. 16

DEAR MR. ALAMPI:

You have requested an opinion from this office as to whether certain employees in your Department may accept after-hours employment.

The facts, as we understand them, are as follows: The Department of Agriculture,

as part of an extensive program to further the New Jersey poultry industry, is responsible for the operation of a program of pullorum-typhoid testing and bird selection of certain poultry breeding flocks.

Bird selection insures a high standard of quality within the breeding flocks. The object of pullorum and typhoid testing is to insure that the breeding flocks do not pass on, through eggs or otherwise, either of these diseases. The prevention of these diseases is, of course, of tremendous import to New Jersey's poultry industry and agricultural economy. In addition, although these diseases are not communicable to humans, products of infected chickens may produce symptoms of food poisoning in humans.

The ultimate program aim is thus to produce chicks which can be represented to be pullorum and typhoid free and of a specified high standard of quality. Sales of these chicks are made to the industry upon such representations.

The work of testing and bird selection under the program is in some cases done by employees of the State, but is also performed, under the supervision of State employees, by poultrymen who have been licensed as agents by your Department. The supervision by State employees insures maintenance of proper standards by the licensed poultrymen and largely determines whether they shall retain their licenses.

Several of the licensed agents are desirous of employing, after their normal working day is concluded, State personnel who are regularly employed in supervision as well as testing and selection under the Department program. If so employed, the State personnel would do testing and selection work for the licensed agents. Apparently, it is felt that these men provide a pool of otherwise unavailable skilled labor.

Because their State work involves supervision of licensed agents in addition to actual testing and bird selection work, we must advise you that a potential conflict exists between the public and proposed private employment of these State employees. We direct your attention to a previous opinion of this office, Printed Memorandum Opinion P3, 1955, dated February 1, 1955, in which we advised that employees may engage in outside employment after their regular working hours, provided that they are able to perform their departmental duties efficiently and satisfactorily and "so long as such employment does not involve a conflict with the interests of the State". In advising you, we reiterate the standard set forth in our previous opinion, i.e., that State departments must avoid "any situation in which a State employee might possibly be influenced in his official capacity by interests arising out of his private employment . . ."

As a rule governing private employment by State employees, there must be at all times meticulous avoidance of any situation involving the possibility that divided loyalties may influence the fair and impartial conduct of a State employee in the public interest. We must advise you, therefore, that employees of your department may not accept after-hours employment of the type described in your letter requesting the Attorney General's opinion.

Very truly yours,

GROVER C. RICHMAN, JR.
Attorney General

By: DAVID LANDAU
Deputy Attorney General