Therefore, you may execute such an agreement on behalf of the State of New Jersey in accordance with the terms of the Temporary Unemployment Act of 1958, as amended, and, subject to the execution of the agreement with the Secretary of Labor, continue to disburse funds to eligible claimants until July 1, 1959.

Very truly yours,

DAVID D. FURMAN
Attorney General

By: DAVID M. SATZ, JR.
Deputy Attorney General in Charge

APRIL 6, 1959

HONORABLE NED J. PARSEKIAN
Acting Director of Motor Vehicles
State House
Trenton, New Jersey

FORMAL OPINION 1959—No. 5

DEAR DIRECTOR:

We have been asked specifically whether a mechanic may drive an empty bus without having the license required by R.S. 39:3-10.1 from garage to repair point, from garage to storage point and back, or on test runs, and generally, whether a mechanic driving an empty bus under any conditions must have the special license.

The pertinent portions of R.S. 39:3-10.1 provide as follows:

> "No person shall drive any motor vehicle or trackless trolley with a capacity of more than six passengers and used for the transportation of passengers for hire, * * * unless specially licensed to do so by the director."

Statutes should be interpreted in accordance with the object sought to be achieved in relation to the evils and mischief sought to be remedied. *State* v. *Meinken,* 10 N.J. 348 (1952); *Lane* v. *Holderman,* 23 N.J. 304 (1956); *Leonard* v. *Werger,* 21 N.J. 539 (1956); and as an aid to interpretation, the courts will look at the history of a statute and its historical background. *Deaney* v. *Linen Thread Co.,* 19 N.J. 578 (1955).

The first general motor vehicle licensing statute was passed in this State in 1921. P.L. 1921, c. 208. No provision was made therein for the special licensing of bus drivers. In 1936 this act was amended to read as follows:

> "On and after January 1, 1937 no person under the age of 21 shall hereafter drive any motor vehicle * * * with a capacity of more than 6 passengers * * * unless specially licensed to do so * * *." P.L. 1936, c. 240.

The statement appended to Senate Bill #172 which resulted in the adoption of the above amendment provided:

> "The purpose of this law is to make safer the requirements for drivers applying to operate busses carrying more than six passengers on the highways of this State.

> "Its further purpose is to present evidence of previous experience and good moral character as a condition precedent to the issuance of a special motor vehicle bus driver's license. The law further sets out a requirement for a physical examination at least once a year and every time such driver's license certificate is renewed or expired.
>
> "This legislation is prompted by reason of the serious accidents occurring recently outside of the State that caused a large toll of lives, and by the desire to use every precaution to prevent busses being operated by persons who have not been given a thorough examination."

An examination of the 32d Annual Report of the Commissioner of Motor Vehicles made in 1937 which was the year the special licensing law first went into effect, discloses:

> "In addition to the regular examination, the Department conducts a different test for persons desirous of operating vehicles licensed for the transportation of passengers for hire. This special test includes a physical examination by a physician. Today, all men engaged in operating buses carry special licenses *thus assuring the public* that they possess a reasonable degree of physical fitness." (Emphasis supplied)

Thus, it appears that in enacting R.S. 39:3-10.1, the Legislature's purpose was to assure that the safety of persons who might become passengers for hire in buses would be entrusted to competent operators rather than to set higher standards for drivers of large vehicles.

The latter interpretation is hardly tenable when we consider that in 1953 an amendment (See P.L. 1953, c. 66) was made to R.S. 39:3-10.1 which sought to bring in for special licensing, in addition to bus drivers, the drivers of truck-tractor, semitrailer or any truck and trailer combination and that this amendment was repealed (See P.L. 1954, c. 12) some two months before the amendment was to go into effect.

> "Generally the rejection of an amendment indicates that the Legislature does not intend the bill include the provisions embodied in the rejected amendment." *Sutherland, Statutory Construction* §5015, at 506 (3d Ed. 1943).

The statute clearly provides that two conditions relative to a motor vehicle must exist before special licensing for driving such vehicle is necessary, i.e., (1) the vehicle must be one with a capacity of more than six persons, (2) the vehicle must be used for the transportation of passengers for hire. It is not necessary for the satisfaction of the latter condition in the statute that persons be physically present as passengers in the vehicle. In our opinion, a vehicle is used for the transportation of passengers for hire when the operator has a present intention to receive persons who may present themselves as passengers. The operator of a bus on a run for the purpose of carrying passengers must have a license required by R.S. 39:3-10.1 without regard to whether any passengers are actually present in the vehicle (which might be the factual situation, for example, at the very beginning or toward the very end of the run). For the statutory conditions requiring a license to be fulfilled it is not necessary that the run be a scheduled run so long as it is undertaken in expectation of obtaining passengers for hire.

In answer to your specific questions, it is our opinion that mechanics driving empty busses from a garage to a repair point, from a garage to a storage point and back, or on a test run need not possess special licenses pursuant to R.S. 39:3-10.1. However, the answer to your general question whether a mechanic driving an empty bus would ever require a license under R.S. 39:3-10.1 is that whenever a bus capable of carrying more than six passengers is being operated with the intention of receiving persons presenting themselves as passengers for hire the operator must have the license required by the statute.

Very truly yours,

DAVID D. FURMAN
Attorney General

By: REMO M. CROCE
Deputy Attorney General

APRIL 14, 1959

STATE BOARD OF PROFESSIONAL ENGINEERS
AND LAND SURVEYORS
1100 Raymond Boulevard
Newark 2, New Jersey

FORMAL OPINION 1959—No. 6

GENTLEMEN:

You have requested our opinion as to whether the seal of a land surveyor must be attached to tax maps which are received by or filed with the Division of Taxation in the Department of the Treasury. We are informed by you that the Division of Taxation presently does not require such a seal upon any plans which are received by or filed with that Department. You question the propriety of that practice by the Division of Taxation in view of the provisions of *N.J.S.A.* 45:8-45 which generally requires, among other things, that plans and specifications involving land surveying filed with State agencies must have affixed thereto a seal of a professional land surveyor licensed pursuant to *N.J.S.A.* 45:8-27. You maintain that a tax map is a "plan" involving land surveying and must comply with the requirements of this section. We do not need to resolve the issue based upon a construction of this section. Other statutory requirements dealing in general with tax maps indicate that a seal of a licensed land surveyor is required on all such maps.

By the terms of *L.* 1913, *c.* 175 (*Acts Saved from Repeal, N.J.S.A.* 54:1-15(1) to (6)), every municipality was required to prepare an accurate map for the purposes of taxation. The then State Board of Equalization, now Division of Taxation, Department of Treasury, *L.* 1905, *c.* 67; *L.* 1915, *c.* 244; *L.* 1931, *c.* 336; *L.* 1944, *c.* 112; *Art.* IV, §1 (*N.J.S.A.* 52:27B-48); *L.* 1948, *c.* 92, §24 (*N.J.S.A.* 52:18A-24), had broad powers to supervise, review and approve the preparation of tax maps.