

MAY 18, 1960

MR. NED J. PARSEKIAN, *Acting Director*
Division of Motor Vehicles
State House
Trenton, New Jersey

FORMAL OPINION 1960—No. 12

DEAR DIRECTOR :

We have been asked whether the Director of the Division of Motor Vehicles can revoke the driver's license or registration of a person who fails to answer a summons charging a violation of a local parking ordinance.

The responsibility for enforcing local parking ordinances rests primarily on local officials. Normally, the summons (sheet 4 of Local Criminal Court Form 12) is completed by a local police officer. See R.R. 8:10-1. It is to be served on the defendant in the manner provided by R.R. 8:3-2(c)(3)(ii). In addition to personal service on the defendant, this rule authorizes service by ordinary mail to the defendant's "last known address." The last known address is obtained through the "look-up" service of the Division of Motor Vehicles. See R.S. 39:3-36, 10 and 37. Thus, means for due service of summonses are available to local officials.

Frequently, when the violation of a local parking ordinance is discovered, the officer fills in on the summons the registration number and description of the vehicle and leaves the summons on the vehicle. This, by itself, is not due service. See *Report, New Jersey Supreme Court's Municipal Court Committee, March 17, 1960*, pages 3 and 5.

Procedures are available to local officials to assure the appearance for trial of a person duly served with a summons. In the case of a resident who fails to answer a summons duly served the local court may issue a warrant for his arrest. R.R. 8:10-3(a). Such a warrant may be executed at any place within the state. R.R. 8:3-2(c)(2). Bail may be required from a non-resident personally served with a summons. N.J.S. 2A:8-27, 28; see *Roesch v. Ferber*, 48 N.J. Super. 231, 233 (App. Div. 1957). If a non-resident who has posted bail fails to appear for trial, the bail is forfeit. R.R. 8:10-3(b).

R.S. 39:5-30 gives the director discretionary power to revoke licenses and registrations for violation of the provisions of Title 39 "or any other reasonable grounds." The adoption of ordinances by municipalities regulating parking is authorized by R.S. 39:4-197(1)(f). However, although a local parking ordinance is authorized by Title 39, the violation of an ordinance is not a violation of Title 39 itself. The "other reasonable grounds" must be related to a person's fitness to own or operate a motor vehicle.

Where proof shows that a person has been duly served with one or more summonses which he has not answered, the director has power to conclude that under all the circumstances revocation is justified because of the person's disregard for the law. However, if it is not shown by proof that the summonses have been duly served in accordance with R.R. 8:3-2(c)(3)(ii), such a conclusion is not justified. Action by the director in these cases would be governed by the procedure set out in R.S. 39:5-30.

It is our opinion that the director may revoke a license or registration of a person failing to answer one or more duly served summonses where, under all the circumstances, the proof shows that the action is justified because of the person's disregard for laws relating to motor vehicles.

Very truly yours,

DAVID D. FURMAN
Attorney General

By: WILLIAM L. BOYAN
Deputy Attorney General

MAY 25, 1960

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

FORMAL OPINION 1960—No. 13

DEAR DIRECTOR PARSEKIAN:

You have asked whether certain interstate authorities, county, bi-municipal and municipal sewerage authorities or municipal housing authorities are entitled to "no fee" registrations for their vehicles under terms of *N.J.S.A. 39:3-27*. For example, the following instrumentalities, Bergen Co. Sewerage Authority; Delaware River Port Authority; Dover Sewerage Authority; Ewing Lawrence Sewerage Authority; Housing Authority of A.P. Washington Village; Housing Authority of Elizabeth; Housing Authority of Hoboken; Housing Authority of Jersey City; Housing Authority of Phillipsburg; Jersey City Incinerator Authority; Mt. Holly Sewerage Authority; Port of New York Authority; and Riverside Sewerage Authority have made application for such registrations.

The statute which requires interpretation, *N.J.S.A. 39:3-27*, reads in part as follows:

"No fee shall be charged for the registration of motor vehicles not used for pleasure or hire, owned by the United States, the State of New Jersey, a municipality, county, Passaic Valley Sewerage Commissioners, North Jersey District Water Supply Commission, duly authorized volunteer fire department, any duly recognized auxiliary or reserve police organization of any municipality, hospital, humane society, an anti-cruelty society in this State, New Jersey wing of the Civil Air Patrol incorporated by the Act of July 1, 1946 (Public Law 476-79th Congress), the American Red Cross or ambulances owned by nationally organized recognized veterans organizations. * * *"

This statute creates an exception to the general requirement that fees be paid for the registration of motor vehicles. *N.J.S.A. 39:3-10*, *N.J.S.A. 39:3-20*, et als. The exception provided by *N.J.S.A. 39:3-27* runs to the United States, the State of