

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

New Jersey, a municipality, or a county as well as to the Passaic Valley Sewerage Commissioners, the North Jersey District Water Supply Commission and charitable organizations of specified types. None of the authorities or instrumentalities you mention are named in the statute.

Although various "authorities" may be considered public or governmental instrumentalities and are closely associated with the State, or a county, or a municipality, such authorities are normally considered independent of these governmental units. For example, in considering the nature of the New Jersey Turnpike Authority and similar public corporations, our Supreme Court in *New Jersey Turnpike Authority v. Parsons*, 3 N.J. 235, 243, 244 (1949) said:

"Though created by the State and subject to dissolution by the State, they are in the eyes of the law independent entities and the State is not responsible for their debts and liabilities, whether they be municipal corporations or counties or such specialized bodies as the Port of New York Authority; Cf. *California Toll Bridge Authority v. Wentworth*, 212 Cal. 298, 298 Pac. 485 (1931). The fact that the members of the Turnpike Authority are appointed by the Governor with the advice and consent of the Senate rather than elected by the voters in nowise alters the status of the Turnpike Authority as an independent corporate entity any more than does the similar appointment of the members of the Port of New York Authority, R.S. 32:2-3, or the members of the Interstate Sanitation Commission, R.S. 32:19-1. * * * It is also objected that the Turnpike Authority is the alter ego of the State and not a self-sufficient public corporation because it is a body corporate and politic 'in the State Highway Department,' R.S. 27:23-3. This statutory provision is manifestly intended to be a compliance with the constitutional provision requiring that 'all executive and administrative offices, departments, and instrumentalities of the State government, including the offices of Secretary of State and Attorney General, and their respective functions, powers and duties, shall be allocated by law among and within not more than twenty principal departments,' Article V, Section IV, paragraph 1. But the State Highway Commissioner is given no authority whatsoever over the Turnpike Authority. The Turnpike Authority is in but not of the State Highway Department and that fact does not make it any the less an independent entity, as the language of the entire Act clearly demonstrates."

The statute in question uses descriptive terms when enumerating certain types of charitable organizations but when the statute departs from the governmental units of State, county and municipality, it does so by naming only two authorities of the type we are considering, the Passaic Valley Sewerage Commissioners and the North Jersey District Water Supply Commission. If all authorities of like nature were to be exempt from registration fees because of their close relation to the named governmental units, there would have been no need for the Legislature to specify these two authorities. In fact, we deem it to be the legislative intent that other authorities not specifically named, which are related to but are somewhat independent of the governmental units of State, county and municipality, are not excused from the payment of registration fees. These authorities are not, strictly speaking, the State, county or municipality. There is no general clause in the statute by which their exemption is expressed.

Accordingly, we conclude that the authorities or instrumentalities not specifically named in *N.J.S.A. 39:3-27* are not entitled to the benefits of that statute.

Very truly yours,

DAVID D. FURMAN
Attorney General

By: PETER L. HUGHES, III
Deputy Attorney General

MAY 26, 1960

RAYMOND F. MALE, *Commissioner*
Department of Labor and Industry
20 West Front Street
Trenton, New Jersey

FORMAL OPINION 1960—No. 14

DEAR COMMISSIONER MALE:

You have asked whether the exemption of hotel employment from the Minimum Wage Standards law, as provided in *R.S. 34:11-34*, applies to a hotel dining room that is operated not by the hotel itself but by a concessionaire. If the exemption does apply, you further ask whether the concessionaire is exempt where he operates a "coffee shop" type of establishment with an entrance directly from the street (as well as from within the hotel) so that patrons need not enter the hotel to enter the establishment. *R.S. 34:11-34* provides:

"As used in this article:

* * *

'Occupation' means an industry, trade or business or branch thereof or class of work therein in which women or minors are gainfully employed but shall not include domestic service in the home of the employer or labor on a farm or *employment in a hotel*;

* * *." (Emphasis supplied.)

The answer to your second question is found in *Hotel Suburban System v. Holderman*, 42 N.J. Super. 84 (App. Div. 1956). There the court held, in part, that Mandatory Wage Order No. 9, concerning the employment of women or minors at restaurant occupations, did not apply to women and minors employed in hotel restaurants regardless of the fact that nonresidents were served in the eating facilities of the hotel. Referring to the definition of "occupation" the Court, at page 91, stated that the Minimum Wage Act

"* * * so unequivocally and unqualifiedly exempts 'employment in a hotel,' that there is no basis for interpretation or construction of the statute by the Commissioner. The duty of the administrative agency, therefore, is to exclude all employment in a hotel from inclusion under the minimum wage standards, at least to the extent of operations not beyond what may be regarded as customary or reasonably incidental to the conduct of the hotel business."