

SEPTEMBER 20, 1961

HON. NED J. PARSEKIAN
Acting Director
Division of Motor Vehicles
25 South Montgomery Street
Trenton, New Jersey

MEMORANDUM OPINION—P-23

DEAR DIRECTOR PARSEKIAN :

You have requested our opinion as to the effect of the enactment of L. 1959, c. 145 on revenues derived from certain motor vehicle sources listed below. Chapter 145 amended R.S. 39:3-3 and R.S. 39:10-25, and became effective July 1, 1959.

The cited sources about which you have inquired are the following:

Interstate Bus Excise Tax—R.S. 48:4-20 et seq.
Fines—R.S. 39:4-47, R.S. 39:5-40, R.S. 39:8-9(g), R.S. 39:9-4(g),
R.S. 39:11-11(g), R.S. 39:12-12(g)
Junk Yard License Fees—R.S. 39:11-8
Auto Race Track Fees—R.S. 5:7-8 et seq.
Driver School and Instructor Licenses—R.S. 39:12-2, R.S. 39:12-5
Service of Process on Non-Residents—R.S. 39:7-2.2, R.S. 39:7-5
Certificate of Drivers Record—R.S. 39:6-42
Oversized Vehicle Permits—R.S. 39:4-26
Transfer of Registration—R.S. 39:3-30
Certified Copy of Regulations and Directives—Division Directive

Chapter 145 of the Laws of 1959 amended the two statutes above cited, i.e., R.S. 39:3-3 and R.S. 39:10-25, in the following manner. Originally, when the statutes were enacted, the purpose for which they were passed was to provide a method for licensing drivers and for registering and providing title certificates for motor vehicles. Agents of the then Commissioner were appointed throughout the State. These agents collected moneys for drivers' licenses, motor vehicle registrations and certificates of title and paid them to the Commissioner, who, upon receipt, remitted to the agent a percentage thereof in an amount which his regulation had provided.

Chapter 145 revises this. Under it all moneys received by Motor Vehicle agents are to be deposited directly to the credit of the State Treasurer in such depository as he directs, and the commission to which the agents are entitled is paid over to them from the general assets of the State Treasury.

The intent of this enactment was to establish a central fiscal control conforming with the general statute relative to collection of moneys, namely, N.J.S.A. 52:18A-8. This statute, enacted in 1948 (L. 1948, c. 92) was part of the reorganization of the State Treasury Department subsequent to the adoption of the Constitution of 1947. The State Treasurer's Office was reconstituted as the Department of the Treasury. This revision provided the following procedure, which is applicable to all revenues collected by the State except as specifically provided otherwise by any statute.

"All State revenue collected by any department, institution, commission, board, committee or official of this State shall, except as otherwise provided by law, be deposited, in the method prescribed by the director of the Division of Budget and Accounting, to the credit of the State of New Jersey in such depositories as the State Treasurer shall designate. A report of such moneys collected shall be submitted to such director and the State Treasurer in such form as the director shall prescribe * * *."

Until the passage of Chapter 145, R.S. 39:3-3 and R.S. 39:10-25 were specific provisions of law under which the Director, then Commissioner, was required to deal separately with the moneys collected for license and registration fees (R.S. 39:3-3) and for certificates of title (R.S. 39:10-25). As described above, not all of the amount of the fees was subject to deposit with the Treasurer, but only that part remaining after payment by the Commissioner of the agent's commission. Thus, these two statutes stood outside the framework which was provided generally for State revenues by Title 52.

The revenues provided by the other statutes or regulations you have listed are governed as to their disposition by you as Director by N.J.S.A. 52:18A-8 and not by R.S. 39:3-3 and R.S. 39:10-25. The specific statutes vary in their terms. Most specify that the Director (Commissioner) of Motor Vehicles hold temporary or limited custody or receive payment of the funds and remit to the State Treasury, sometimes for dedicated purposes. A few make no provision for remission to the State Treasury (R.S. 39:11-8; R.S. 39:12-5; R.S. 39:7-5; R.S. 39:6-42; R.S. 5:7-18; see also R.S. 39:3-84.3; R.S. 39:4-26; R.S. 39:3-28). All should be deposited by the Director of the Division of Motor Vehicles to the credit of the State of New Jersey, General Treasury, in accordance with the method prescribed by the Director of the Division of Budget and Accounting under N.J.S.A. 52:18A-8, with a code number identification of the specific account. The transmittal of income form and a copy of the deposit slip should be held for the Department of the Treasury.

In summary, you are advised that Chapter 145 of the Laws of 1959 has no direct effect upon the other statutes listed. Since the question has been raised, the subsidiary point is dealt with as well. It is proper for you, administratively, to continue to comply in all cases with the method of payment into the State Treasury established pursuant to N.J.S.A. 52:18A-8.

Very truly yours,

DAVID D. FURMAN
Attorney General

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HONORABLE NED J. PARSEKIAN
Acting Director
Division of Motor Vehicles
25 S. Montgomery Street
Trenton, New Jersey

MEMORANDUM OPINION—P-24

DEAR DIRECTOR PARSEKIAN:

You have sought my opinion as to whether a truck bearing dealer's plates and hauling a commercial load is in violation of the commercial registration (R.S. 39:3-20)