

"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

SEPTEMBER 20, 1961

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)

or overweight (R.S. 39:3-84) statutes, under the circumstance that it is on loan from a motor vehicle dealer, the title owner, for demonstration purposes and not for hire.

My opinion is that the use of dealer's plates is lawful and that no motor vehicle violation exists on the facts stated. Formal Opinion 1960—No. 15 is squarely in point and its statutory analysis of R.S. 39:3-18 is incorporated herein.

A truck cannot be reliably tested for performance without a load. Whether a truck on trial or demonstration run hauls a dummy load or a commercial load is immaterial. A truck which is hired or purchased from a dealer, however, must display commercial plates, and its operation on a public highway with dealer plates would constitute a motor vehicle violation. Similarly, use by a dealer or his employee in another commercial enterprise of the dealer has been held by the courts to require commercial, not dealer, plates. *State v. Tucker*, 61 N.J. Super. 161 (App. Div. 1960).

Very truly yours,

DAVID D. FURMAN
Attorney General

SEPTEMBER 20, 1961

HONORABLE KATHARINE E. WHITE
Acting State Treasurer
State House
Trenton, New Jersey

MEMORANDUM OPINION—P-25

DEAR MRS. WHITE:

You have asked our opinion with respect to the effect of N.J.S.A. 18:13-112.51 on N.J.S.A. 18:13-112.70 and R.S. 43:3-1 et seq.

N.J.S.A. 18:13-112.51 describes the benefits payable to members of the former Teachers' Retirement Fund. It reads:

"Any member or beneficiary of the Teachers' Pension and Annuity Fund who was a member of the Teachers' Retirement Fund as created by L. 1896, c. 32; L. 1899, c. 178; L. 1900, c. 96; L. 1902, c. 36; L. 1903 (2nd Sp. Sess.), c. 1; L. 1905, c. 95; L. 1906, c. 314; L. 1907, c. 139; and the amendments thereof and supplements thereto, prior to his becoming a member of the Teachers' Pension and Annuity Fund, shall receive in addition to his retirement allowance otherwise payable a pension which shall be the actuarial equivalent of the contributions, without interest, which he paid to the Teachers' Retirement Fund prior to September 1, 1919, which he has not otherwise received."

N.J.S.A. 18:13-112.70 requires that the retirement allowance of a member who reaches 65 years of age shall be reduced "by the amount of the old age insurance benefit under Title II of the Social Security Act paid or payable to him whether received or not." It provides, however, that "the retirement allowance shall not be reduced below the amount of the annuity portion of the retirement allowance fixed at the time of the member's retirement * * *." In short, when the Social Security