

ATTORNEY GENERAL

July 8, 1966

MISS JUNE STRELECKI, *Director*
Division of Motor Vehicles
25 South Montgomery Street
Trenton, New Jersey

FORMAL OPINION 1966—No. 1.

Dear Miss Strelecki:

You have requested our opinion as to whether the Director of the Division of Motor Vehicles may require that a motorist pay the fee of an uninsured motorist, as provided by the Unsatisfied Claim and Judgment Fund Law, particularly in N.J.S.A. 39:6-63(d)(1), when the motorist is uninsured for any reason and for any period during the registration year even though he was insured on the day of registration.

You have stated that the actual number of motorists who are insured at the time of registration but subsequently become uninsured during the registration year is unknown. It is estimated, however, based upon an analysis of available statistics, that the Fund's reserves would increase if motorists are required to pay the fees prescribed by N.J.S.A. 39:6-63(d)(1) when at any time during the registration period their insurance lapses. You have further stated that any program developed by the Division of Motor Vehicles where a motorist's insurance has lapsed after the date of registration, such as the additional fees or suspension or revocation of licenses or registrations, would have the effect of discouraging motorists, in the first instance, from permitting this event to happen.

It is our opinion for the reasons expressed herein that the Director of the Division of Motor Vehicles may require a motorist to pay the additional fee chargeable to uninsured motorists if he is without insurance on *any day* during the year of registration.

N.J.S.A. 39:6-63(d) provides that:

“On December 30 in each year, beginning with 1956, the director shall calculate the probable amount which will be needed to carry out the provisions of this act during the ensuing registration license year. . . . If, in his judgment, the estimated balance of the fund at the beginning of the next registration license year will be insufficient to meet such needs, he shall

“(1) Determine the amount to be fixed as the Unsatisfied Claim and Judgment Fund Fee for such registration license year. Such fee shall in no case exceed \$25.00 and shall be paid by each person registering an uninsured motor vehicle during such ensuing year at the time of registration in addition to any other fee prescribed by any other law.”

“Uninsured motor vehicle” is defined by N.J.S.A. 39:6-62 as “a motor vehicle as to which there is not in force a liability policy meeting the requirements of sections 3, 24, 25 or 26 [39:6-63, 39:6-46 to 48] of the Motor Vehicle Security Responsibility Law of this State, established pursuant to the provisions of chapter 173 of the Laws of 1952, as amended and supplemented, and which is not owned by a holder of a certificate of self-insurance under said law.”

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The administration of this statute, with respect to the collection of fees and the Fund's liability, is as follows:

1. If a person who at the time of registering a motor vehicle has in effect an automotive liability policy¹ covering the motor vehicle registered, this person would not be required to pay the \$25.00 fee that is presently collected from an individual registering an uninsured motor vehicle.

2. If an uninsured operator or uninsured owner of a motor vehicle (hereinafter referred to as "uninsured motorist") is, in any manner, involved in an automobile accident resulting in bodily injury or property damage in excess of \$100.00, any other injured parties in the accident may receive payment from the Unsatisfied Claim and Judgment Fund Board², provided that such party has complied with all the requisites of the Unsatisfied Claim and Judgment Fund Law.

3. In the event, however, that a person who had properly registered an insured motor vehicle at the time of registration were later to become uninsured and subsequently involved in an automobile accident, the Fund's exposure for property damage and bodily injury nevertheless remains the same, even though the Fund had not received the \$25.00 fee that is presently collected from the uninsured motorist at the time of registration. The Unsatisfied Claim and Judgment Fund Law makes no distinction as to the liability of the Fund for automobile accidents resulting from the acts of uninsured motorists who have not contributed to the Fund at the time of registering their motor vehicles.

That the Legislature intended to permit an uninsured motorist to escape his obligation of contributing toward the Fund is contrary to the entire legislative history and policy of the Unsatisfied Claim and Judgment Fund Law which indicate that the principal burden of supporting the Fund is placed upon the uninsured motorists. N.J.S.A. 39:6-63(d), as originally enacted, provided for a fee of not more than \$1.00 imposed upon owners of all motor vehicles and another fee of \$2.00 to be imposed on owners of *uninsured* motor vehicles in addition to any other fees. L. 1952, c. 174, p. 572, §3, A 410. In 1956, section 39:6-63(d) was amended to delete the \$1.00 fee required of each person registering a motor vehicle and to increase the amount payable by uninsured motorists from \$2.00 to not more than \$8.00. L. 1956, c. 22, p. 64, §2, S 238. In 1958, the \$8.00 fee requirement payable by the uninsured motorist was again increased to an assessment of not more than \$15.00. The purpose of the 1958 amendment, which increased this fee, was "to increase payments to accident victims of uninsured drivers; to eliminate inequities and objectionable features that have appeared in the Unsatisfied Claim and Judgment Fund Law after three years of operation; to expedite payment of claims that have been settled and to place on the uninsured motorist, who creates the problem, the principal burden of supporting the fund." 1955-1958 R.S. Cum. Supp., p. 680, L. 1958, c. 99, Assembly Bill 422.

The primary object of the Fund is to provide a measure of relief for persons who sustain losses or injury inflicted by financially irresponsible or unidentified owners or operators of motor vehicles, where such persons would otherwise be remediless. *Corrigan v. Gassert*, 27 N.J. 227, 233 (1958); *Dixon v. Gassert*, 26 N.J. 1, 5 (1958); *Gray v. Tice*, 52 N.J. Super. 309, 313 (Law Div. 1958). That the Legislature still intends to further this object and support the Fund with the fees of uninsured motorists is evidenced by the recent passage of Assembly Bill No. 727 (L. 1965, c. 72, p. 198) which increases the registration fee of an uninsured motorist from \$15.00 to \$25.00 without changing the fees payable by insured motorists.

From the foregoing history and from the scheme of the Unsatisfied Claim and Judgment Fund Law, it is clear that the Legislature intends to visit the burden of

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maintaining the Unsatisfied Claim and Judgment Fund upon those persons who made the establishment of the Fund necessary—registrants of uninsured motor vehicles. An owner whose insurance lapses during the registration year is no less financially irresponsible than one who has no insurance on the day of registration. He is entitled to no better treatment if he is uninsured because he forgets to renew his policy or cancels it than if he neglects or is unable to obtain insurance in the first place. The evil is being uninsured—even if the period be for only one day.

This interpretation is not prevented by the phrase “. . . Such fee . . . shall be paid . . . at the time of registration . . .” contained in section (d)(1) of N.J.S.A. 39:6-63. As the total context of a statute must be viewed in seeking legislative intent, *Trugman v. Reichenstein*, 27 N.J. 280 (1958), the import of this phrase must be gained, not alone from the words used within the confines of a particular section, but from the words when read in connection with the entire statute under review. *Petition of Sheffield Farms Co.*, 22 N.J. 548 (1956). Thus, consideration must also be given to the language immediately preceding this phrase which imposes an obligation upon the Director to:

“. . . calculate the probable amount which will be needed to carry out the provisions of this act during the ensuing registration license year. . . .”

and continues:

“. . . If in his judgement, the estimated balance of the fund at the beginning of the next registration license year will be insufficient to meet such needs, he shall:

“(1) Determine the amount to be fixed as the Unsatisfied Claim and Judgment Fund fee for such registration license year. . . .”

Consequently, though it may be contemplated that the fee for registering an uninsured vehicle will be paid at the time of registration, it is clear that this fee is not merely assessed for the act of registration but that the fee covers the registration privilege for an entire license year.

“An express statutory grant of power or the imposition of a definite duty carries with it by implication, in the absence of a limitation, authority to employ all the means that are usually employed and that are necessary to the exercise of the power or the performance of the duty.” *State v. Nestos*, 48 N.D. 894, 187 N.W. 233 (1922).

It is accepted in the construction of statutes that “that which is clearly implied from the purpose which underlies a statute is as much a part of the law as that which is expressed.” *Ranney v. Istituto Pontificio Delle Maestre Filippini*, 20 N.J. 189, 197, 198 (1955); *Minardi v. Pacific Airmotive Corp.*, 43 N.J. Super. 460, 468 (Ct. Ct. 1957). See also *Phelps Dodge Corp. v. Labor Board*, 313 U.S. 177, 193-194, 61 S. Ct. 845, 852 (1941), 3 *Sutherland, Statutory Construction*, § 5402 (1943). It is obvious that one of the implied but necessary assumptions upon which the Director must rely, in anticipating the revenue that should be reasonably available to meet the needs of the Fund in the payment of claims, is that motorists, who are insured at the time of registration, intend to be covered for the entire period during which the vehicle is registered. Otherwise, the number of motorists at the time of registration

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would not serve as a reliable basis for calculating the potential liability of the Fund.

To construe this statute, therefore, as limiting the power of the Director to collect the uninsured fees that are prescribed only from motorists who were uninsured at the time of registration would (1) exempt motorists who became uninsured for as much as 364 days of the remaining registration period from paying these fees, and (2) interfere with the express statutory duty obliging the Director to ascertain the probable financial needs of the Fund. Such an interpretation would be contrary to the canon of legislative interpretation that all sections of a statute are enacted to achieve a sensible, effective and operative result, *Seatrains Lines Inc. v. Medina*, 39, N.J. 222, 226-227 (1963); 3 *Sutherland, Statutory Construction*, § 4510, p. 327 (3 ed. 1943); that an interpretation is preferred which would not defeat the policy of the Legislature and lend itself to absurdity, 3 *Sutherland, Statutory Construction, op. cit.* § 5505, p. 41; and that statutory language is not to be given a rigid interpretation when it is apparent that such meaning was not intended, *Alexander v. N.J. Power & Light Co.*, 21 N.J. 373, 378 (1956).

Accordingly, it is our opinion that in the administration of the Unsatisfied Claim and Judgment Fund, the Director of the Division of Motor Vehicles may require a motorist to pay the fees prescribed within N.J.S.A. 39:6-63(d)(1) when, at any time during the registration period, the motorist's insurance lapses.

Very truly yours,
ARTHUR J. SILLS
Attorney General

By: JAMES S. OLIVER
Deputy Attorney General

1. See N.J.S.A. 39:6-25(c) as to what constitutes insurance.
2. See N.J.S.A. 39:6-23 for limitations on amounts payable from the Fund.

October 26, 1966

Honorable John A. Kervick
State Treasurer
State House
Trenton, New Jersey

FORMAL OPINION, 1966—No. 2.

Dear Mr. Kervick:

You have requested an opinion on questions concerning the special veterans retirement benefits in the Teachers' Pension and Annuity Fund and the Public Employees' Retirement System.

You have asked specifically whether a veteran member of the Teachers' Pension and Annuity Fund or Public Employees' Retirement System may vest his special half