

SEPTEMBER 2, 1952.

ABE J. GREENE, *Commissioner,*  
*State Athletic Commission,*  
State House, Trenton, N. J.

## FORMAL OPINION—1952. No. 26.

DEAR COMMISSIONER:

Receipt is acknowledged of your inquiry of August 18th, in which you ask to be advised as to the legality of taxing admissions to television pictures exhibited in New Jersey theatres over controlled television circuits, the actual exhibition or performance being held without the State.

Pursuant to the provisions of the Revised Statutes (R. S. 5:2-12) you may impose a tax on licensees who hold boxing, sparring or wrestling exhibitions within this State but the tax may be collected only from such statutory licensees. Under the situation existing as outlined in your letter, theatre owners would not be subject to the license tax fixed by the statute. It would be necessary to affirmatively amend the present statute should it be desired to extend the tax to these theatrical activities.

Very truly yours,

THEODORE D. PARSONS,  
*Attorney General.*

By: JOSEPH LANIGAN,  
*Deputy Attorney General.*

JL:rk

AUGUST 29, 1952.

MR. BENJAMIN B. JOHNSON, *Deputy Commissioner,*  
*Department of Banking and Insurance,*  
State House Annex,  
Trenton 7, New Jersey.

## FORMAL OPINION—1952. No. 27.

DEAR MR. JOHNSON:

We have before us your letter of August 11, 1952 requesting an opinion with respect to the contributions to be made to the Motor Vehicle Liability Security Fund, pursuant to chapter 175, P. L. 1952, by insurance companies authorized to transact the business of motor vehicle liability insurance of motor vehicles principally garaged in this State.

It appears that it is common practice with most companies writing automobile liability insurance to include in the policy, for an additional premium, a provision for payment on behalf of the injured party or for reimbursement of the insured for payment of medical, hospital, surgical and funeral expenses incurred as a result of an accident involving the automobile with respect to which the liability

of the insured is covered by the policy. This type of coverage is commonly known as "medical payments."

Contributions to the security fund are determined from a formula contained in sections 4 and 5 of the aforesaid act calculated upon the net direct written premiums received for policies of motor vehicle liability insurance.

You inquire: "In your opinion, does the act require the insurers to make payments into the Motor Liability Security Fund on the premiums written on auto medical payments coverage, which insurance is made a definite part of a policy of motor vehicle liability insurance by the insurer, yet of itself is not a form of liability coverage and in fact is not furnished by any carrier except as a part of such a policy."

We are of the opinion that the act does not require payments into the fund on those premiums.

Paragraph (g) of section 1 of said act defines "net direct written premiums" to mean "direct gross premiums written on policies of motor vehicle liability insurance \* \* \* \* \*"

Paragraph (f) of said section defines "motor vehicle liability insurance" to mean "insurance against the legal liability of the insured for injury to persons or damage to property of another arising out of the ownership, operation or maintenance of motor vehicles which are principally garaged in this State."

It, therefore, is apparent that the act contemplates payments into the fund to be made only on net direct premiums for policies written on motor vehicle liability insurance as therein defined.

R. S. 17:28-1 authorizes the inclusion of the additional risk of medical payments in a motor vehicle liability insurance policy. This situation is no different from the inclusion in such policies of fire and theft insurance and collision insurance, also permitted by this section of the Revised Statutes, which are risks separate and distinct from the primary liability risk, and for which an additional premium is charged for each of such risks.

The dissimilarity between the liability risk and the "medical payments" risk is found in the fact that payments will be made under the latter without regard to the occurrence of liability on the part of the insured.

The fact that, under present business practices, "medical payments" coverage is not furnished by any company, other than as a part of a liability policy, does not alter the situation.

Very truly yours,

THEODORE D. PARSONS,  
*Attorney General.*

By: OLIVER T. SOMERVILLE,  
*Deputy Attorney General.*

OTS:meb