

DECEMBER 30, 1958

MR. WALTER H. CRAMER  
State Superintendent  
Division of Weights and Measures  
187 West Hanover Street  
Trenton, New Jersey

## FORMAL OPINION 1958—No. 21

DEAR SIR:

We have been asked to render an opinion upon the meaning of the phrase "shall be given to the purchaser" as it is used in *N.J.S.A.* 51:9-7, which concerns the sale and delivery of liquid fuel. *N.J.S.A.* 51:9-7 provides:

"A delivery ticket and duplicate thereof shall be issued upon the completion of delivery of each sale or delivery of liquid fuel exceeding ten gallons. If the sale or delivery exceeds 50 gallons and is of a type of liquid fuel which is required to be measured by meter, the ticket shall be printed by means of an automatic printing device attached to and co-ordinated with the operating mechanism of a meter approved for the measurement of liquid fuels pursuant to the provisions of this chapter. On each ticket there shall be distinctly and legibly expressed the date, the name and address of the seller, the name and address of the purchaser, the number of gallons sold or delivered, the grade of liquid fuel, and the signature of the person making such sale or delivery or his agent. One of such tickets *shall be given to the purchaser* and the other shall be retained by the seller for a period of one year, such retained tickets being subject to inspection by any weights and measures official. Delivery tickets shall be serially numbered. No duplicate or retained ticket shall be destroyed but may be voided and kept on file." (Our emphasis)

Your precise question is whether the delivery ticket must be given to the purchaser or left at the place of delivery immediately upon completion of the delivery of liquid fuel, or whether the delivery ticket may be mailed to the purchaser at a later time. It is our opinion that the statute in question contemplates and requires that the delivery ticket, which sets forth, among other things, the quantity and grade of the sale, must be presented to the purchaser or left at the place of delivery with the person in charge; or if there is no one in charge, left in a conspicuous place therein, immediately upon completion of delivery.

The sections treating of the sale and delivery of liquid fuel compose only a part of Title 51 of the New Jersey Statutes. Other sections deal with the delivery, among other things, of solid fuel, *R.S.* 51:8-9, liquefied gases, *N.J.S.A.* 51:10-6, and lumber and lumber products, *R.S.* 51:4-18. Contained as it is among statutes regulating the sale and delivery of other fuels and products, *N.J.S.A.* 51:9-7 must be construed together with them. As stated in *Palmer v. Kingsley*, 27 N.J. 425, 429 (1958): "It is a cardinal principle of statutory construction that statutes relating to the same or similar subject matter—statutes *in pari materia*—are to be construed together." See also *State v. Brown*, 22 N.J. 405, 416 (1956); *In re Appeal of N. Y. State Terminal Realty & Terminal Co.*, 21 N.J. 90, 98 (1956). It is the ultimate goal of statutory construction that the true intention of the law be applied, *viz.*, the "reasonably prob-

able intention as shown by the symbols of expression, read and evaluated in the light of the context and the other relevant considerations." *State v. Brown, supra*, at p. 416.

*N.J.S.A.* 51:9-7 was originally passed in 1937, *L.* 1937, c. 183, § 7 and amended in 1956, *L.* 1956, c. 109, § 3. Neither of these enactments (1937 Sen. B. 114 and 1956 Assembly B. 209), contained a statement as to its purpose. Reference, however, to those statutes that are *in pari materia* fills the void. *N.J.S.A.* 51:10-6 (liquefied gases), enacted as *L.* 1953, c. 143, § 6, provides that a copy of the delivery ticket "shall be delivered to the person receiving the liquefied petroleum gas \* \* \*." The statement appended to the bill (Assembly B. 481) states:

"The purpose of this bill is to protect the purchaser and consumer of commercial or industrial liquefied petroleum gas and to provide standards of measure which shall be used throughout the State in the sale and distribution of this product."

*R.S.* 51:4-18 (lumber and lumber products), enacted as *L.* 1935, c. 236, § 2, requires that a ticket "shall be delivered to the person, firm or corporation receiving such lumber or lumber products \* \* \*." The legislative intent is thus set forth:

"The purpose of this bill is to protect the general public in the purchase of lumber and lumber products from unscrupulous lumber dealers in the delivery of false specie, measure and quality." Statement, Assembly B. 372.

With regard to *R.S.* 51:8-9 (solid fuel), we need go no further than the language of the section. It provides that a copy of the delivery ticket shall be "left with the purchaser of the solid fuel or his agent \* \* \*."

A study of the statutes mentioned above demonstrates that the intent of the Legislature in enacting each of these statutes was to protect the consumer by enabling him to ascertain that the quantity and grade marked upon the delivery slip (for which he would be charged) were the same as that actually delivered. The detection of a false quantity, particularly with regard to the delivery of liquid fuel, would be almost impossible unless the consumer is given an opportunity to check his receipt against the meter attached to the delivery truck. If this opportunity were not available, an unscrupulous dealer, upon completion of his delivery, could return to his storeyard and increase the reading of the meter by running fuel into his own tanks. In addition, the requirement that the delivery ticket be given to the purchaser immediately upon completion of the delivery permits the Superintendent of Weights and Measures to maintain a better inspection system enforcing the statutory regulations than he could without such a requirement. *R.S.* 51:9-1 et seq.

Where there is an opportunity for fraud, the Legislature can correct it in the manner it deems most appropriate. *Cresci v. Brock*, 225 P. 2d 685, 694 (Cal. Dist. Ct. App. 1951). In the light of the foregoing considerations, it is our opinion that the Legislature intended that the delivery ticket be given to or left with the purchaser or left at the place of delivery with the person in charge; or if there is no one in charge, left in a conspicuous place therein, immediately upon completion of the delivery. In this way, the public will be protected against occasional defalcations.

Very truly yours,

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