

APRIL 30, 1958

HONORABLE SALVATORE A. BONTEMPO  
*Deputy Commissioner*  
*Department of Conservation and*  
*Economic Development*  
State House Annex  
Trenton, New Jersey

## MEMORANDUM OPINION—P-16

DEAR MR. BONTEMPO:

We are in receipt of your request for an opinion concerning the method and manner of fixing the amount to be paid by oyster dealers to the State of New Jersey for oysters packed and shipped, or otherwise sold in the shell to persons not required to be licensed under Chapter 39, Laws of 1945.

The method and manner of fixing the amount to be paid by the oyster dealers to the State are set forth in the following statutes:

N.J.S.A. 50:3-20.18 provides:

"In the case of oysters packed and shipped or otherwise sold in the shells by oyster dealers to persons not required to be licensed under this act, the respective *oyster dealers shall pay to the State of New Jersey the true, fair, cash market value of the oyster shells* so packed and shipped and otherwise sold, as fixed by the Board of Shell Fisheries, under the provisions of this act, *on the basis of one bushel of shells for each bushel of oysters so sold or shipped* which payments shall be made as statements are submitted." (Emphasis supplied)

N.J.S.A. 50:3-20.19 provides:

"Every operator of an oyster shucking house licensed under this act shall submit, in writing, monthly, a verified statement or report of the number of bushels of oysters so originating, purchased from each oyster planter or oyster dealer licensed under this act during the preceding month and every oyster dealer licensed under this act *shall* likewise submit, in writing, each month, a verified statement or report of the number of bushels of oysters so originating, purchased from each oyster planter or oyster dealer licensed under this act and the number of bushels of oysters packed and shipped and otherwise sold, in the shells, to persons not licensed under this act and the number of bushels of oysters so originating, packed and shipped and otherwise sold to persons licensed under this act, which statement or report shall be furnished on or before the fifteenth day of the month following the month for which such statement is made." (Emphasis supplied)

N.J.S.A. 50:3-20.20 provides in part as follows:

"The Board of Shell Fisheries shall, between June first and July first of each year, make a survey . . . and *shall ascertain the true, fair, cash, market value of oyster shells per bushel to be paid in lieu of the return of oyster shells* under this act during said year." (Emphasis supplied)

## OPINIONS

The method and manner of fixing the amount to be paid by oyster dealers stated briefly is:

Oyster dealers under R.S. 50:3-20.19 shall give a report on or before the 15th of each month of the number of bushels of oysters procured and packed and shipped during the preceding month. Said oyster dealers shall submit along with the said monthly report the sum per bushel as fixed by the Board of Shell Fisheries pursuant to N.J.S.A. 50:3-20.18.

The Board of Shell Fisheries is required under N.J.S.A. 50:3-20.18 to fix the value of oyster shells at the true, fair, cash market value. This language is specific, unambiguous, and unequivocal; the price per bushel to be paid is the true, fair, cash market value. Under this language the Board of Shell Fisheries has the duty and obligation to fix the value of oyster shells at the same figure as oyster shells are selling for on the open market. This language is repeated in N.J.S.A. 50:3-20.20 wherein the Board of Shell Fisheries is directed to make an annual survey between June first and July first of each year to ascertain the true, fair, cash market value of oyster shells per bushel to be paid in lieu of the return of oyster shells.

You are accordingly advised that the Board of Shell Fisheries shall between June first and July first of each year, fix the true, fair, cash market value of oyster shells and that oyster dealers shall, during the ensuing year, pay the price so fixed to the State of New Jersey for all oysters packed and shipped or otherwise sold in the shells by them.

Very truly yours,

DAVID D. FURMAN  
*Acting Attorney General*

By: GEORGE H. BARBOUR  
*Deputy Attorney General*

APRIL 30, 1958

HONORABLE FREDERICK J. GASSERT, JR.  
*Director, Division of Motor Vehicles*  
State House  
Trenton, New Jersey

## MEMORANDUM OPINION—P-17

DEAR DIRECTOR GASSERT:

Your recent inquiry poses the question whether commercial registration fees are properly required for passenger cars which "are mounting brackets, 12 inches by 40 inches on the rear bumper" or other portion thereof, and upon which "the space \* \* \* is sold regularly through an advertising agency and is occupied by advertising signs."

As here pertinent, R.S. 39:1-1, as amended, provides:

"'Commercial motor vehicle' includes every type of motor-driven vehicle used for commercial purposes on the highways, such as the transportation of goods, wares and merchandise \* \* \*."