

**Opinion No. 53-5874**

December 17, 1953

**BY:** RICHARD H. ROBINSON, Attorney General

**TO:** Mr. Homer C. Pickens State Game Warden Department of Game and Fish Santa Fe, New Mexico

{\*304} Receipt is acknowledged of your letter dated December 11, 1953, in which you request an opinion as to whether or not the State Game Commission, or you as State Game Warden, can legally charge a fee for a game breeder's license under Section 29 of Basic Regulation No. 218, which was promulgated by the State Game Commission, April 10, 1952.

The language of your regulation designated as Section 29 in your Basic Regulations authorizes the State Game Commission and yourself as Warden, when any person desiring to engage in the business of rearing and selling game birds or game quadrupeds, in a preserve of which he is the owner or lessee, and which is wholly enclosed in such a manner as to adequately prohibit the ingress and egress at all times of the kind of game birds or game animals involved, shall make application to the State Game Warden, on a form prepared by him, and give other information required in this Section, to license said person if said application is made in good faith and upon the payment of a fee of \$ 1.00, to issue said person a breeder's permit.

From the language of Section 43-408 N.M.S.A., 1941 Compilation, and Section 43-427 N.M.S.A., 1941 Compilation, this Basic Regulation No. 218 was promulgated by the State Game Commission, and is consistent with both of these sections herein before mentioned, and directly affect your question.

It is therefore the opinion of this office that the language contained in your Basic Regulation No. 218 and the language of Sections 43-408 and 43-427, N.M.S.A., 1941 Compilation, makes it legal for the State Game Commission and the State Game Warden to charge a fee for a game breeder's license.

Trusting that this fully answers your inquiry, I remain

By: Hilario Rubio

Assist. Attorney General