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the superintendent, while those who are discharged from a state school and who may be afflicted with the same mental illness cannot be restored upon the judicial decree based upon the superintendent's certificate of discharge. To give such a construction to the statute in question would reach an absurd result. It is not conceivable that the Legislature intended that patients afflicted with the same or a similar illness could not be restored in accordance with Burns' 22-4242 to 22-4245, *supra*, simply because they had been discharged from a state institution designated a school instead of a hospital.

"* * * it is perfectly clear that if the literal import of the words is not consistent with the legislative intent, or if such interpretation leads to absurd results, the words of the statute will be modified by the intention of the legislature. * * *"

Sutherland's Statutory Construction, 3rd Ed., Vol. 2, Sec. 4701, p. 333. See also in this respect:

United States v. Brown (1948), 333 U. S. 18, 92 L. Ed. 442, 68 S. Ct. 376;

United States v. Bryan (1950), 339 U. S. 323, 94 L. Ed. 884, 70 S. Ct. 724.

It is my opinion that the Legislature in passing Acts of 1955, Ch. 338, *supra*, intended that Muscatatuck and Fort Wayne schools would be included within the provisions of Ch. 338 and that patients discharged therefrom could be restored to legal competency by the procedure outlined in this act.

OFFICIAL OPINION NO. 50

September 29, 1958

Hon. Crawford F. Parker
Lieutenant Governor of Indiana
332 State House
Indianapolis, Indiana

Dear Lieutenant Governor Parker:

This is in answer to your request for an Official Opinion concerning the Indiana Livestock Buyers' Act, being Acts of 1935, Ch. 203, as amended, as found in Burns' (1957 Supp.),

Sections 42-911 to 42-918. The first question which you asked reads as follows:

“Where a person has been found guilty of having committed a felony and such person is merely an employee or representative of a duly licensed buyer as defined in the Act and such person is not under suspension or other disciplinary order issued by the Secretary of Agriculture of the United States, pursuant to the Packers and Stockyards Act, does the fact that such person has been convicted of a felony constitute a bar to his acting as an employee or representative of a duly licensed buyer?”

In order to answer this question the words “employees or representatives” must be limited to employees or representatives who are acting as “buyers” as defined in the act, since such employees or representatives are the only ones intended to be covered by the provisions of the act. The word “buyer” is defined by Acts of 1935, Ch. 203, Sec. 2(d), as amended, as found in Burns’ (1957 Supp.), Section 42-911 (d), as follows:

“(d) The word ‘buyer’ shall mean any person, or his employee or representative, who operates or maintains a concentration point, as herein defined, or who is engaged in the business of buying and selling of live-stock, either on his own account, or as the employee or agent of the purchaser: Provided, That the term ‘buyer’ shall not include any producer, as herein defined, when purchasing livestock, at a concentration point, for use as a producer or the packer purchasing livestock at such a concentration point now owned, controlled or operated by the packer, for use as a packer.”

It is quite clear from an examination of this definition that the act does not contemplate a difference between buyers who are employers and buyers who are employees or representatives. All must be considered to fall within the general term “buyer.” The licenses issued to all buyers are the same, except in the amount of the bond which must be provided, and this is determined only by the dollar volume of business done by a buyer during the year.

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Therefore, all employees and representatives are subject to the same provisions regarding the procurement of licenses as are employers who are buyers.

The further question, whether commission of a felony acts as a bar to the acting as an employee or representative of a buyer, must be answered in the affirmative for the following reasons:

First: An employee or representative of a buyer, under the act, as I have previously shown, is also a buyer and subject to the same provisions and requirements regarding the procurement of a license as is his employer.

Second: The Acts of 1935, Ch. 203, Sec. 5, as amended, as found in Burns' (1957 Supp.), Section 42-914, reads in part as follows:

“* * * Application for license shall be made, in writing, to the administrative officer upon forms prescribed by him. Such application shall contain a verified statement as to applicant's financial responsibility, that he has never been convicted of a felony, and that he is not subject to any suspension order or other disciplinary order issued by the secretary of agriculture of the United States pursuant to the Packers and Stockyards Act, as amended wherein it appears that such applicant or licensee knowingly committed or participated in the violation covered by such order. The administrative officer, after having ascertained that the applicant has never been convicted of a felony, is of good moral character, has a sound financial standing, and that he is not subject to any suspension order or other disciplinary order issued by the secretary of agriculture of the United States pursuant to the Packers and Stockyards Act, as amended wherein it appears that such applicant or licensee knowingly committed or participated in the violation covered by such order, shall issue such license. * * *”

This provision provides that one requirement for procurement of a license is the filing of an application. This application must contain a verified statement that the applicant has not been convicted of a felony. Filing such an application is a

condition precedent to the issuance of a license. Conversely, since the license must contain the true statement that the applicant has not been convicted of a felony, the fact that the applicant has been convicted of a felony would make him unable to file the required application, and he could not fulfill the condition precedent to the issuance of a license.

It is, therefore, my opinion that where an employee or representative of a duly licensed buyer as defined by the Indiana Livestock Licensing Act has been convicted of a felony, he is barred from obtaining a license under the act and acting as an employee or representative of a duly licensed buyer.

In your letter you also ask for my opinion on four statements of policy which you set forth as follows:

“1. Where a person has been convicted of a felony or is under suspension or other disciplinary order of the Secretary of Agriculture, pursuant to the Packers and Stockyards Act, it has been held by the Live Stock License Division that such person is ineligible for license under the Livestock Buyers Act.

“2. Where a person has been convicted of a felony but is not under suspension or other disciplinary order etc., it has likewise been held that such person is ineligible for license under the Livestock Buyers Act.

“3. Where a person already licensed under the Livestock Buyers Act has been convicted of having committed a felony or is under suspension or other disciplinary order, pursuant to the Packers and Stockyards Act, it has been held by the Live Stock License Division that the license is subject to revocation.

“4. Where a plea of ‘Not Guilty’ is pending in Federal Court, it has been held by the Live Stock License Division that such plea does not constitute a bar to the granting of a license under the Livestock Buyers Act but that any license issued under such circumstances would be subject to revocation should the licensee later be found ‘guilty’ of having committed a felony or is subject to suspension or other disciplinary order by the Secretary of Agriculture of the United States.”

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The answers to the four statements set out above are as follows:

1. This policy is correct under the statute for the very same reason as given in answer to the question-in-chief.

Non-conviction of a felony and non-suspension or other disciplinary order of the Secretary of Agriculture pursuant to the Packers and Stockyards Act are requirements to the filing of a valid application, which in turn, is a condition precedent to the issuance of a license. Inability to make such true statements prevent a person from obtaining a license.

2. This question is answered specifically in the question-in-chief.

3. There is no authority in the act given to the administrator or any other party to revoke a properly issued license for the reason that a person has been convicted of a felony. Section 4 of the act, being Acts of 1935, Ch. 203, Sec. 4, as amended, as found in Burns' (1957 Supp.), Section 42-913, gives the power of revocation to the administrator in the following words:

“The administrative officer shall have the power and authority to do the following:

* * *

“(d) To decline to grant, revoke or suspend, for such period of time as the administrative officer may determine, a license as required by this act, in the event the administrative officer is satisfied that (1) the applicant, or licensee, is violating the laws of this state, or of the United States, governing the purchase, dealing in or otherwise handling of livestock; or (2) the applicant or licensee has been guilty of fraudulent practices in the purchase, dealing or otherwise handling of livestock; or (3) the applicant or licensee is subject to a suspension order or other disciplinary order issued by the secretary of agriculture of the United States pursuant to the Packers and Stockyards Act, as amended wherein it appears that such applicant or licensee knowingly committed or participated in the violation covered by such order; Provided, That, before any license

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shall be suspended or revoked, the licensee shall be furnished. * * *"

This act makes it clear that the administrator has authority to revoke licenses where the person already licensed is under suspension or other disciplinary order of the Secretary of Agriculture of the United States pursuant to the Packers and Stockyards Act or for the other reasons set forth in the act. These are words of limitation and give the administrator no authority to revoke for any other reason.

4. Indictment for commission of a felony would not be sufficient to bar a person from obtaining a license, since the statute provides as a bar only *conviction* for the commission of a felony. Once a license is issued, as seen in the answer to part No. 3 above, there is no authority given the administrator, or anyone else to revoke a license for a subsequent conviction of a felony unless it is one of the acts specifically set forth in Acts of 1935, Ch. 203, Sec. 4, as amended, as found in Burns' (1957 Supp.), Section 42-913, *supra*, and quoted in the answer to question No. 3 above.

In conclusion, it is my opinion that employees and representatives of buyers must also be considered "buyers" under the definition of that word in the act and, therefore, as such, must obtain a license. If such employee or representative has been convicted of a felony then such conviction will operate as a bar to his obtaining a license.

The administrator's power of revocation is specifically limited by the provisions of the act and there are no provisions in the act which would enable the administrator to revoke a license already issued where the licensee is subsequently convicted of a felony.