In the case at hand, the amended title, *supra*, was clearly sufficient to apprise the Legislature that the body of the Act prohibited the transportation, sale, offering or exposing for sale of fireworks and regulated the manner of using the fireworks. In any event, the title to the amendatory Act of 1951 set out the full title of the 1939 Act which expressly mentioned "penalties" and the fact that penalties were imposed could not have surprised anyone who read the title of the 1951 Act, *supra*. Further, I think the penalty provisions of the Act are properly connected with and germane to the subject thereof as expressed in the title and are also an effective means in accomplishing the purpose indicated by the title. That is, the title to the Act clearly indicates that the doing of certain things is to be prohibited by the body of the Act and I think that the imposition of a penalty for doing the thing prohibited by the Act is a detail which need not, in this case, be set out in the title: see Western Union Telegraph Co. v. Braxtan (1905), 165 Ind. 165, 169, 74 N. E. 985.

I am, therefore, of the opinion that the amended title to the Act is broad enough to include the penalty provisions contained in Section 6, *supra*, and that said penalties are in full force and effect.

OFFICIAL OPINION NO. 13

May 23, 1955

Mr. Harry E. Wells
Insurance Commissioner
240 State House
Indianapolis, Indiana

Dear Mr. Wells:

This is in reply to your letter of April 20, 1955, in which you request an Official Opinion as to the following:

"The recent Legislature passed a law amending the Old 1897 Law under which assessment insurance companies were exempt from premium tax. The amended law provides that such companies have to pay premium tax and this law was especially amended in order that
this Department could require the Mutual Benefit Health and Accident Insurance Company to pay premium tax. Some years ago they agreed to pay Gross Income Tax in lieu of premium tax and have been paying said Gross Income Tax to December 31, 1954. I have advised them that they did not have to pay Gross Income Tax for the period from January 1 to March 5, 1955, the day the Governor signed the bill, which had an Emergency clause but the Company feels that they might be required or asked to pay both Gross Income Tax for the period as well as premium tax for the entire year of 1955.

“They have agreed to pay the full premium tax for 1955 so as a matter of protection to the Company this Department would like to have an Official Opinion to the effect that said Company is not liable for the two months and five day period if they pay the full premium tax for the year 1955.”

The Act in question is House Enrolled Act No. 323, the Acts of 1955, Ch. 55. As stated in your letter said House Enrolled Act No. 323 does have an emergency clause, which puts it in force and effect from and after its passage.

1951 O. A. G., page 38, No. 14, follows the proposition of law that all acts are to be given prospective construction rather than retroactive construction unless clearly otherwise indicated by the context of said Act. Rogers v. Rogers (1893), 137 Ind. 151, 36 N. E. 895. However, this office in 1943 O. A. G., page 368, held that Mutual Benefit Health and Accident Insurance Companies were subject to and liable for the premium tax invoked under the Acts of 1935, Ch. 162.

The Acts of 1933, Ch. 50, Sec. 6, as last amended by the Acts of 1955, Ch. 291, as found in Burns’ Indiana Statutes (1951 Repl., 1955 Supp.), Section 64-2606, provides in part: “There shall be excepted from the Gross Income taxable under this Act:

* * *

“(k) All amounts received by insurance companies which pay the state of Indiana a tax of more than one [1] per cent upon premiums, as provided by the laws of this state.”
The Acts of 1955, Ch. 55, *supra*, provides for an annual premium tax on assessments derived from business written within this state and the amount of three (3) per cent of the gross premium over the deduction allowed therein.

It is, therefore, my opinion that if the Mutual Benefit Health and Accident Insurance Company pays the premium tax for the entire year of 1955, regardless of the effective date of the Acts of 1955, *supra*, they will not be subject to Gross Income tax for any portion thereof, by virtue of the holding in 1943 O. A. G., page 368, *supra*.

OFFICIAL OPINION NO. 14

June 1, 1955

Mr. Harvey B. Stout  
State Service Officer  
World War Memorial  
431 N. Meridian Street  
Indianapolis, Indiana

Dear Mr. Stout:

Your letter of May 19, 1955 has been received requesting an Official Opinion on the following facts:

"A licensed teacher is employed by the Vocational Educational Division of the State Department of Public Instruction and participates in the Teacher Retirement Fund. His duties consist in supervising schools in the State authorized to offer Institutional-on-Farm Training for veterans.

"By action of the Governor of the State, the responsibilities for the operation of the Institutional-on-Farm Training program is transferred, together with administrative personnel, to the Education Division of the Veterans' State Service Department, with the supervisory duties remaining the same.

"Question: May a teacher thus employed under those conditions continue to participate in the Teacher Retirement Fund?"