

when and under what conditions the applicant receives his license, if the state from which he comes has such laws at the present time as ours, he would be entitled to admission."

Again referring to your letter I note that although the person referred to therein was licensed under a special Illinois statute he was eligible at that time to take the Indiana Board of Pharmacy examination.

Your letter does not so state, but I am assuming that the general requirements of the present Illinois Examination Law are comparable to the present requirements of our law. If this is so, and following the reasoning of the above quoted former opinion, it is my opinion that the Indiana Board of Pharmacy in its discretion could permit registration through reciprocity to the person described in your letter.

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OFFICIAL OPINION NO. 100

November 3, 1953.

Hon. Harold W. Handley,  
Lieutenant Governor, State of Indiana,  
331 State House,  
Indianapolis, Indiana.

Dear Mr. Handley:

This is in reply to your letter of October 7, 1953 in which you inquire as to the following:

"Do tobacco growers come within the scope of horticulturists as used in Chapter 86 of the Acts of the General Assembly of 1953?"

The Acts of the General Assembly of 1953, Chapter 86 as found in Burns' Indiana Statutes Annotated (1950 Repl., 1953 Supp.), Section 15-219 provides in part as follows:

"Eleven members shall be nominated, one from each agricultural district as herein set forth, to be selected by the following agricultural interests within said district as represented by county organizations of breed-

ers of swine, sheep, dairy cattle, beef cattle, light horses, draft horses, poultry, and horticulturists, vegetable growers, grain growers, home economics clubs, organized agriculture as represented by the farm bureau and grange, and county and other regularly organized agricultural fairs.”

The word “horticulture” has never been defined by the Indiana courts. However, it has been defined by courts of other states as follows:

“Horticulture” is the cultivation of a garden or orchard; the science or art of growing fruits, vegetables, and flowers or ornamental plants. It is a branch of plant production, which is one of the main divisions of agriculture.

*Guerrero v. United States Fidelity & Guaranty Co.* (1936), 128 Tex. 407, 98 S. W. (2d) 796, 798.

The word “horticulture” means the cultivation of a garden, the art of cultivating or managing gardens. The ordinary productions of horticulture are generally classed under the three heads of fruits, flowers, and vegetables, which on a large scale are cultivated separately, but in small gardens are more or less combined.

*State ex rel. Boynton v. Wheat Farming Co.* (1933), 137 Kan. 697, 22 P. (2d) 1093.

Legislature used the words “agricultural workers” and “engaged in agriculture” in their comprehensive, usual and accepted sense in 77 P. S., Section 24, enacted to exempt agricultural workers from the operation of the Compensation Law, “agricultural” meaning the art or science of cultivating the ground, including raising and harvesting of crops; a generic term including process of supplying human wants by raising products of soil and by associated industries, and including “horticulture,” which is the department of the science of agriculture relating to cultivation of orchards, including care of fruit.

*Bucher v. American Fruit Growers’ Co.* (1932), 107 Pa. Super. 399, 163 A. 33, 35.

“Horticulture” means the cultivation of a garden or orchard, the science and art of growing fruits, vegetables and flowers or ornamental plants, and is one of the main divisions of agriculture.

State v. Wertheimer Bag Co. (1949), 253 Ala. 124, 43 So. (2d) 824, 830.

The statutory exemption of certain agricultural products from tax imposed by statute on gross proceeds or receipts from sales of tangible personal property and specific exception of sales by florists and nurserymen from such exemption did not render statute unconstitutional as making arbitrary, unreasonable, and capricious classification, in absence of discrimination among florists and nurserymen, though “agriculture,” in its broadest sense, includes “horticulture,” which includes “floriculture” and “viticulture.” Acts 1941, Chapter 386, Section 4 (n). A “florist” is engaged in “floriculture” and is a cultivator of, or dealer in, ornamental flowers or plants; the business of “nurseryman” is a branch of “horticulture”; and a “nursery” is a place where trees, shrubs, vines, etc., are cultivated for transplanting or for use as stalks for grafting, a plantation of young trees or other plants.

Hardin v. Vestal (1942), 204 Ark. 492, 162 S. W. (2d) 923, 925.

Webster’s New International Dictionary (2nd Ed.) defines “horticulture” as cultivation of a garden or orchard; the science and art of growing fruits, vegetables and flowers or ornamental plants.

The exclusion of tobacco growers from the scope of the word “horticulture” is not a technicality but on the contrary is a limitation by law. As may be seen from the above court definitions of the word “horticulture” it has been judicially construed to encompass only the science or art of growing fruits, vegetables and flowers or ornamental plants. Tobacco growing not falling in one of the above classifications, may not then be construed to be a horticultural pursuit.

It is therefore my opinion that tobacco growers do not come within the scope of the word “horticulturists” as used in Chapter 86 of the Acts of the General Assembly of 1953.