

Chapter 2 of the Acts of 1947 the compensation as provided in the 1943 Act was payable in odd numbered years six hundred dollars (\$600) on January 15th and six hundred dollars (\$600) on February 15th. In even numbered years it is payable quarterly.

As to Mr. Black, legally there could be no question as to overpayment as a legislator since as an employee, he is still serving in both capacities and entitled to pay attached to both. As to Mr. Slenker, we do not have information concerning the exact method of computation of his salary except that he has filed a voucher for \$161.29. I have previously stated that he is now entitled to the salary of public counselor. Whether he has received overpayment as a legislator involves the question of the method of computation of his salary, what the legislative intent was in providing an annual salary payable in the first two months of the year, when a legislator officially takes office and becomes entitled to his compensation and incidental facts which require further information not set forth in your request. For that reason this opinion does not consider the question of overpayment as to Mr. Slenker nor is it intended as a construction of Chapter 177 of the Acts of 1943 and Chapter 2 of the Acts of 1947.

OFFICIAL OPINION NO. 31

June 4, 1947.

Hon. Robert Rossow,
Colonel, Cav. Res. (Ret.),
Supt., Indiana State Police,
State House,
Indianapolis 4, Indiana.

Dear Sir:

I am in receipt of your letter of April 17, 1947, requesting an official opinion concerning sections 10-4740, 10-4741 and 10-4742, Burns' Indiana Statutes, 1933, same being sections 2 and 3, chapter 158, Acts 1937 and section 8, chapter 63, Acts 1935, a part of which letter is quoted as follows:

"You are requested to give us an official opinion concerning Burns' Indiana Statutes, sections 10-4740, 10-4741, 10-4742.

"The specific question in which we are interested is whether or not the same law applies to sales of pistols by an individual to other individuals as applies to sales of pistols by a dealer."

I quote the sections of the statutes referred to in your letter.

Section 10-4740:

"No seller shall deliver a pistol to the purchaser thereof until forty-eight (48) hours shall have elapsed from the time of the application for the purchase thereof, and, when delivered, said pistol shall be securely wrapped and shall be unloaded. At the time of applying for the purchase of a pistol the purchaser shall sign in triplicate and deliver to the seller a statement containing his full name, address, occupation, color, place of birth, the date and hour of application, the caliber, make, model, and manufacturer's number of the pistol to be purchased and a statement that he has never been convicted in this state or elsewhere of a crime of violence. The seller shall within six (6) hours after such application, sign and attach his address and forward by registered mail one (1) copy of such statement to the chief of police of the municipality or the sheriff of the county of which the seller is a resident; the duplicate duly signed by the seller shall within seven (7) days be sent by him with his address to the superintendent of the state police; the triplicate he shall retain for six (6) years. This section shall not apply to sales at wholesale. (Acts 1935, ch. 63, § 7, p. 159; 1937, ch. 158, § 2, p. 843.)"

Section 10-4741:

"No retail dealer shall sell or otherwise transfer, or expose for sale or transfer, or have in his possession with intent to sell, or otherwise transfer, any

pistol without being licensed as hereinafter provided.”
(Acts 1935, ch. 63, § 8, p. 159).

Section 10-4742:

“The sheriff of any county may grant licenses in forms prescribed by the Superintendent of the state police effective for not more than one (1) year from date of issue, permitting the licensee to sell pistols at retail within this state subject to the following conditions in addition to those specified in section nine hereof, for breach of any of which the license shall be forfeited and the licensee subject to punishment as provided in this act.

“(1) Location. The business shall be carried on only in the building designated in the license.

“(2) Displaying License. The license or a copy thereof, certified by the issuing authority, shall be displayed on the premises where it can easily be read.

“(3) Conditions of Sale. No pistol shall be sold (a) in violation of any provision of this act, nor (b) shall a pistol be sold under any circumstances unless the purchaser is personally known to the seller or shall present clear evidence of his identity.

“(4) Records of Sale—Contents. A true record in triplicate shall be made of every pistol sold, in a book kept for the purpose, the form of which may be prescribed by the superintendent of the state police and shall be personally signed by the purchaser and by the person effecting the sale, each in the presence of the other, and shall contain the date of sale, the caliber, make, model and manufacturer’s number of the weapon, the name, address, occupation, color, and place of birth of the purchaser, and a statement signed by the purchaser that he has never been convicted in this state or elsewhere of a crime of violence. One (1) copy shall within six (6) hours be sent by registered mail to the chief of police of the municipality of which the dealer is a resident; the duplicate the dealer shall within seven (7) days send to the

superintendent of the state police; the triplicate the dealer shall retain for six (6) years.

“(5) Display of Advertising. No pistol or imitation thereof or placard advertising the sale thereof shall be displayed in any part of any premises where it can readily be seen from the outside. The fee for issuing said license shall be five dollars (\$5.00), which fee shall be paid into the county treasury. (Act 1935, ch. 63, § 9, p. 159; 1937, ch. 158, § 3, p. 843).”

These sections are a part of the “Uniform Firearms Act” adopted by the Legislature in 1935, and amended in some respect in 1937. When the whole Act is considered it is apparent that its purpose was to make it difficult for criminals and potential criminals to procure pistols; and further, to aid officers in the solution of crimes by enabling them to trace a pistol used in crime or found at or near the scene thereof to its last lawful owner.

In the interpretation of uniform laws it is permissible to consider the notes and reports of the Commissioners of Uniform Laws.

Colby v. Riggs National Bank (1937), 92 F. (2d) 183.

Regarding the principles embodied in that part of the Act under consideration and the objectives to be accomplished thereby, it was stated in the committee report recommending adoption of the proposed Act made to the National Conference on Uniform State Laws and Proceedings:

“A detailed method of identification is provided in the case of sales by private persons and transfers by dealers, requiring licenses of dealers.”

And further in regard to section 9 thereof it was stated:

“The provision of this section forbidding a seller to transfer on the day of purchase is intended to avoid the sale of a firearm to a person in a fit of passion. The section further requires identification

of purchaser and weapon and the preservation of this identification.”

Handbook of the National Conference of Commissioners on Uniform Laws and Proceedings, 1930, pp. 571, 573.

Section 10-4740 *supra*, outlines in detail the procedure to be followed before a sale can be consummated by one wishing to sell or purchase a pistol to the end that the purchaser and weapon may be properly identified and a complete record thereof may be kept in the hands of law-enforcement officials. This section does not apply to sales at wholesale.

The two following sections, to-wit, 10-4741 and 10-4742, *supra*, set forth the conditions, circumstances and requirements which must be met before a retail dealer shall be permitted to “sell or otherwise transfer, or expose for sale or transfer, or have in his possession with intent to sell, or otherwise transfer any pistol * * *”. The conditions set forth are in addition to those specified in Section 10-4740 *supra*, (the words “section nine” used therein are apparently an error and should read “section seven”). By this reference, section 7, (10-4740), is included in and made a part of section 10-4742.

If a transfer of ownership of a pistol from one individual to another were permitted without the necessity of identifying the purchaser and of making a record of the transfer setting forth the information required by Sec. 10-4740 *supra*, then I think the intent and purpose of the Act would be practically nullified. For in that event, law-enforcement officials would have no record information enabling them to identify the owner of a pistol, unless he be a purchaser from a retail dealer; and criminals and potential criminals might purchase pistols without restriction.

It is obvious I think that it was intended that the provisions of Section 10-4740 *supra*, should apply to all transfers of the ownership of pistols from one individual to another or other individuals. However, it was not intended that the individual selling, unless he be a retail dealer, should be required to procure a license to sell as provided in sections 10-4741 and 10-4742, *supra*.

In answer to your specific question, I would say that Section 10-4740 controls and applies to a sale or transfer of the ownership of a pistol by an individual, who is not a retail dealer, to another or other individuals; and that Sections 10-4740, 10-4741 and 10-4742 regulate and control the conditions under which a retail dealer may lawfully effect the sale or transfer of a pistol.

OFFICIAL OPINION NO. 32

June 8, 1947.

Mr. Maurice Wolfe, Secretary,
State Board of Tax Commissioners,
301 State House,
Indianapolis 4, Indiana.

Dear Sir:

I am in receipt of your recent request for an official opinion as follows:

"We are requesting an official opinion with reference to Chapter 57 of the 1945 Acts as amended by the 1947 Session of the General Assembly. Said amendment being Chapter 248 of the Acts of the 1947 Session on the following set of facts.

"Prior to the enactment of the amendment and, acting under and, fully complying with the provisions of Chapter 57 of the 1945 Acts a school city with the approval of this Board proceeded to levy and collect tax at the rate of \$1.00 per \$100.00 on all taxable real and personal property.

"Since the amendment (Chapter 248 of the 1947 Session) limits the levy to 75c per \$100.00 of taxable real and personal property the following questions have arisen:

"Does the amendment entirely eliminate Section 3 of the 1945 Acts and rescind the levy made under the old act, or can the school city continue to levy and collect at the rate and for the period of time provided for in the original proceedings?