

I am therefore of the opinion these children are entitled to admission to the Indiana Soldiers' and Sailors' Children's Home.

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OFFICIAL OPINION NO. 35

April 27, 1945.

Hon. Raymond L. Pike, Director,  
Indiana Economic Council,  
609-612 Board of Trade Building,  
Indianapolis 4, Indiana.

Dear Sir:

Your letter of March 24, 1945, addressed to the Attorney General has been received requesting an opinion as to whether or not it is necessary for the City of Greencastle, Indiana, to repeal a previous ordinance establishing an airport or landing field enacted under the provisions of Chapter 57, Acts 1945, as amended by Chapter 89 of the Acts of 1943, before the enactment of a new ordinance by the common council of such city so that such airport may be established, maintained, or operated within the provisions of Chapter 190 of the Acts of 1945.

Chapter 190 of the Acts of 1945 is the Airport Act of 1945. Section 2 of said statute provides in part as follows:

“That whenever the governing body of any municipality as now or hereafter defined by Act of the General Assembly of the State of Indiana shall after the taking effect of this Act adopt an ordinance, an act or a resolution in favor of the acquisition, improvement, operation or maintenance of an airport or landing field for such political subdivision under the provisions of this Act, and declaring a necessity for the same, then on the date of the taking effect of such ordinance, act or resolution, there shall be hereby established as one of the executive departments of such municipality a department of aviation, which shall be under the control of a board of four members, to be known as the Board of Aviation Commissioners. \* \* \*”

Section 5 of Chapter 190 of the Acts of 1945 provides in part as follows:

“\* \* \* Provided, however, That if at the time of the creation, appointment and qualification of such board of aviation commissioners in any such municipality as provided for in this Act, any such municipality shall own or control any airport or landing field, or other air navigation facilities, then upon such qualification of said board of aviation commissioners, the exclusive control, management and authority over such airport or landing field and other air navigation facilities *shall thereby at once be transferred to said board of aviation commissioners without the passage of any ordinance therefor*; and the department or board or officer or officers of such municipality or other persons having possession or control thereof shall at once turn over and deliver to such board of aviation commissioners all personal property and records, books, plans, maps and other papers and documents relating to the aviation business of such municipality and the unexpended balance of any fund or funds theretofore appropriated by any such municipality for aviation purposes shall become a part of and be credited to the aviation fund of such department of aviation. \* \* \*” (Our emphasis.)

The most common rule of statutory interpretation is that a statute clear and unambiguous on its face need not and cannot be interpreted by a court, and only those statutes which are ambiguous and of doubtful meaning are subject to the process of statutory interpretation.

Sutherland Statutory Construction, 3rd Edition, Section 4502;

Hord v. State (1907), 167 Ind. 622, 641;

Citizens Trust and Savings Bank v. Fletcher American Co. (1934), 207 Ind. 328, 334.

The provisions of said statute are plain and unambiguous and require no construction. I am of the opinion it is not necessary to repeal any previous ordinance of such city enacted for the purpose of establishing an airport or landing

field under the provisions of a prior Act of the General Assembly of Indiana, before the governing body of such city enacts a new ordinance to bring such airport or landing field within the provisions of Chapter 190 of the Acts of 1945.

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OFFICIAL OPINION NO. 36

May 1, 1945.

Hon. Burrell E. Diefendorf, Chairman,  
Indiana Alcoholic Beverage Commission,  
Indianapolis, Indiana.

Dear Sir:

I am in receipt of your letter of April 28th requesting an official opinion of this office upon the following questions:

“1. Is the additional excise tax of 4c per gallon of alcoholic malt beverages as levied by Section 13, of Chapter 357 of the Acts of the 1945 Legislature payable upon beer which at midnight on April 30th is still in the custody of the brewer but which has been cased and stamped?

“2. Are the additional excises levied by this Act upon vinous and spiritous beverages payable upon wines and liquors which at midnight on April 30th have been stamped under the former law and are in the possession of the wholesaler, but are sold and delivered by the wholesaler thereafter?”

The Act to which you refer levies a tax in addition to all taxes or excises now imposed of four cents (4c) upon each gallon of alcoholic malt beverages, one dollar (\$1.00) upon each gallon of spiritous beverages, and thirteen cents (13c) upon each gallon of vinous beverages. In each instance the tax is levied upon “the sale and/or possession for sale within this state” of the beverage taxed. In the case of malt beverages it does not state upon whom the tax is levied. The tax on spiritous beverages is levied against any permittee holding a distiller’s, rectifier’s, wholesaler’s, dining car, winery, or boat wine permit, but provides that the same article shall be