

I do not find a statute of this State specifically authorizing the Indiana Girls' School to pay for the emergency medical treatment of inmates committed to that institution, who have been paroled therefrom, nor would that authorization be necessarily implied as an incident of any express power otherwise granted.

Irrespective of any duty which might be imposed upon the Indiana Girls' School to give such emergency medical treatment to inmates actually confined in said institution, it is clear that in the instant case, where such girl has been paroled to the custody of her sister and was living in Marion, Indiana, at the time of such illness, that during the time such parole was effective the liability and responsibility of the Indiana Girls' School for the furnishing of food, shelter and the necessities of life to said girl ceased.

I am therefore of the opinion there is no liability on the Indiana Girls' School for the expense of hospitalization for this girl while she was on parole from such institution. There being no liability on the State of Indiana in this case, this office will not express an opinion on the question of possible liability of other persons for such expense.

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OFFICIAL OPINION NO. 19

March 22, 1945.

Hon. A. V. Burch,  
Auditor of State,  
State House,  
Indianapolis, Ind.

Dear Mr. Burch:

I am in receipt of your letter dated March 20th, requesting an official opinion as follows:

"The question has arisen as to whether or not petroleum products sold as stove and light naphtha are subject to the inspection fee under the Oil Inspection Law, coming as it does within the gasoline specifications as set out in the law.

"It appears that the claim of a 'no fee charge' is based on the fact that this product is sold and marketed

as 'S & L Naphtha' and not gasoline. However, it is sold through filling stations for use in motor cars and the 4c per gallon fuel tax collected.

"I am pleased to submit herewith a report on tests made by our Chief Chemist and a copy of the 1943 Oil Inspection Law, for your consideration and opinion thereon."

Section 4 of Chapter 75, page 224, Acts 1943 (Burns' Indiana Statutes, Section 35-2141), establishes minimum standards for gasoline and Section 9 provides for the payment of inspection fees upon gasoline, without further definition.

In *U. S. v. Gulf Refining Co.* (1925), 268 U. S. 542, the court held that the naphtha fraction of crude oil is divided by distillation into three products, of which gasoline is the lightest and most volatile, benzine the intermediate, and naphtha, or Painter's Naphtha, the heaviest. Therefore, if, as you state, S & L Naphtha tests as being lighter and more volatile than the minimum standard established by Section 4 for gasoline, which is itself the lightest and most volatile product of petroleum, it most certainly falls within the statutory definition of gasoline.

It can make no difference that the product is called naphtha if it falls within the statutory definition of gasoline. Gasoline is defined by the statute and not by the parties. Even if the designation of the product by the parties were of probative value yet "Naphtha" is a generic term and embraces all the lighter or more volatile parts of crude oil down to and sometimes including 'kerosene.'" *U. S. v. Gulf Refining Co.*, *supra*, page 551. Therefore, there can be no inconsistency in calling gasoline "naphtha."

It is therefore my opinion that any petroleum product, including the product described in your letter, testing higher than the minimum volatility established by law for gasoline, is gasoline for the purposes of imposing the fees established by Section 9 of the Oil Inspection Law.