STATE FIRE MARSHAL: State fire marshal entitled to charge Adjutant General’s office annual inspection fee of $5 for each armory where public amusements or entertainments are carried on.

February 21, 1944.

Opinion No. 17

Mr. Clem Smith,
State Fire Marshal,
State House,
Indianapolis, Indiana.

Dear Sir:

Your letter of January 28, 1944, received as follows:

"An official opinion is requested in answer to a question arising between the Adjutant General of the State of Indiana and the State Fire Marshal.

"Chapter 83 of the Acts of 1937 and Chapter 268 of the Acts of 1943 (Burns’ Supp., Sec. 20-1001 et seq.) provide for an inspection by the Fire Marshal of places of public amusement or entertainment, for which an inspection fee is charged. The Adjutant General does not deny liability for such fee for the inspection of State Armories wherein public amusements or entertainments are carried on. The Adjutant General questions whether or not his department is liable for an annual inspection fee on such Armories.

"May the State Fire Marshal lawfully make an annual charge for the statutory inspection fee for an annual inspection, or, is one charge for such inspection all that may be made for any Armory building, regardless of the number of inspections made?"

Section 20-1001, Burns’ 1943 Supplement, being Sec. 1, Ch. 83, Acts of 1937, provides as follows:

"On and after the first day of July, 1937, it shall be unlawful for any person, firm or corporation to operate any moving picture show, dance hall, cabaret, night club, or any other place of public amusement or entertainment in any building, theatre or hall, to which the public is admitted, or to operate any other place of
public entertainment or amusement within the state, unless the owner, lessee, occupant or agent of such building, theatre, hall or place of amusement or entertainment has the approval of the state fire marshal to use such building, hall or place for such purpose, and has been granted a permit, as herein provided. All inspections made by the state fire marshal by virtue of the provisions of this act shall be made in strict compliance with the provisions of this act and all of such buildings, halls, theatres and other places shall conform with the rules and regulations of the state fire marshal."

Section 20-1002, Burns' 1943 Supplement, being Sec. 2, Ch. 83, Acts of 1937, is as follows:

"Any person, firm or corporation desiring to operate any moving picture show, dance hall, cabaret, night club, with stage or floor show, theatre, hall or other place of public amusement or assembly, where entertainment is given, shall apply for a permit so to do, to the state fire marshal."

Section 20-1004, Burns' 1943 Supplement, being Sec. 4, Ch. 83, Acts of 1937, as amended by Sec. 1, Ch. 268, Acts of 1943, provides in part as follows:

"For the purposes of this act, such buildings, rooms, halls and places so to be approved shall be classified as follows:

"** * *

"(c) Class C shall include: (1) public halls, night clubs with stage or floor shows, and other places of public amusement or entertainment given in any building or part thereof, or given under tents or canvas.

"(2) places of amusement or entertainment that are under the direct supervision of the athletic commission of the state of Indiana;

"(3) halls, gymnasiums or places of assembly where-in contests, drills, exhibitions, plays or displays, dances, concerts or other types of amusement are held by schools, universities, social or fraternal organizations,
lodges, farmers organizations, societies, labor unions or churches;

“(4) institutions in which the inmates are involun-
tarily detained; or,

“(5) any state, city or county building or property.

“(d) The several halls, gymnasiums or other places
of assembly, amusement or entertainment designated
as Class C in subsection (c) of this section, shall be
under the direct supervision of the state fire marshal
and shall be inspected at such times as the state fire
marshal shall deem necessary to insure adequate safety
to the public. After an inspection has been made, and
if the state fire marshal shall approve such place of
amusement or entertainment, a Class C permit shall
be issued therefor, for which permit, an inspection fee
of five dollars ($5.00) shall be paid: Provided, how-
ever, That no inspection fee or charge for this or any
other service rendered by the state fire marshal's office
under this act shall be assessed against any group,
society or organization listed under Class C subsection
(3) of this act, unless rental fees are charged or col-
lected, and no person shall be liable under this act until
after inspection and receipt of notice from the state
fire marshal's office by registered mail.”

Section 20-1005, Burns' 1943 Supplement, being Sec. 5, Ch.
83, Acts of 1937, provides:

“All permits shall be issued to expire on the thirty-
first day of December of the calendar year in which
they are issued, and, regardless of the time when they
are issued, the fee payable shall be for a full year.”

It is important to note that prior to the amendment of Sec-
tion 20-1004, Burns' 1943 Supplement, supra, by Sec. 1, Ch.
268, Acts of 1943, those buildings coming within the pro-
visions of Class C, referred to in said section, were exempt
from the payment of any inspection fee, but were still re-
quired to have such inspections and permits issued.

Under the 1943 amendment to said section the only places exempt from an inspection fee due the State Fire Marshal are those places set out in Clause (c), subsection (3). State, city or county buildings are listed under Clause (c), subsection (5), and therefore would not be within the exemption.

A change of legislative purpose will be presumed from a material change in the wording of a statute.


Under Section 20-1005, supra, such buildings require the issuance of a permit which shall expire on the last day of each calendar year, and provides that regardless of the time such permit is issued, the fee payable therefor shall be for a full year.

By such amendment of Section 20-1004, Burns' 1943 Supplement, supra, the legislature has evidenced its intention to require the payment of an annual inspection fee, and the issuance of an annual permit, for each of such State Armories wherein public amusements or entertainments are carried on.

It is, therefore, my opinion that said statute as so amended requires the Adjutant General's office to pay an annual inspection fee of five dollars ($5.00) on State Armories where public amusements or public entertainments are carried on, and requires permits to be issued annually for each of such buildings.

STATE BOARD OF HEALTH: Authority of Administrative Building Council to publish building codes, distribute copies to certain state officials, and sell other copies.

February 22, 1944.

Opinion No. 18

Hon. Thurman B. Rice, M. D.,
State Health Commissioner,
Indiana State Board of Health,
1098 West Michigan Street,
Indianapolis 7, Indiana.

Dear Dr. Rice:

This will acknowledge receipt of your letters dated January 13th, 1944, and February 1st, 1944, respectively, requesting...