LABOR, COMMISSIONER OF: Whether Sections 6, 7, 8 and 10 of Chapter 226 of Acts of 1911 have been repealed.

September 17, 1940.

Hon. Thomas R. Hutson,
Commissioner of Labor,
404 State Capitol,
Indianapolis, Indiana.

Dear Sir:

I have before me your letter as follows:

"We would appreciate an opinion as to whether or not Section 42-1301, 42-1302, 42-1303 and 42-1304 of Burns' Annotated Indiana Statutes of 1933 are still in effect and if so, what forms for reports should be prepared in compliance with Section 42-1301."

Sections 42-1301, 42-1302, 42-1303, and 42-1304 are Sections 6, 7, 8 and 10 of Chapter 226 of the Acts of 1911, entitled: "AN ACT entitled 'An act to create a bureau of inspection, appointment of officers, defining their duties and matters properly connected therewith, abolishing certain offices and commissions and declaring an emergency.'" (Acts of 1911, p. 553), Sections 6 and 7 having been amended by the General Assembly of 1913. (Acts of 1913, pp. 916 and 919).

Section 9 of the first above mentioned Act provided an appropriation for the payment of the salaries of officers and expenses for the years ending September 30th, 1911, September 30th, 1912, and September 30th, 1913. The effectiveness of this Section has expired by limitation and, therefore, need receive no further consideration.

Section 1 of the first above mentioned Act creates a bureau to be known as the "State Bureau of Inspection" and fixes the salary of the Chief Inspector.

Section 2 of the first above mentioned Act provides that the Bureau shall consist of certain departments and fixes salary of the Chief Inspector.

Section 3 of the first above mentioned Act provides that the deputy inspector of buildings, factories and workshops, and the deputy inspector of mines and mining, (two of the departments provided by Section 2, supra) should have all
the powers and perform all the duties conferred by law upon
the Chief Inspector of factories, the Inspector of mines and
the Labor Commissioner which offices were abolished by
said Act.

Section 4 of the first above mentioned Act deals with the
subject of inspection of boilers and provides the number of
inspections which must be made, and other duties of the
Inspector of boilers.

Section 5 of the first above mentioned Act provides the
duties of the Deputy Inspectors and requires a report to be
made by Deputy Inspectors to the Chief Inspector. (Acts
of 1911, p. 553, et seq.)

It may be worthy of note that Section 2 of the first above
mentioned Act was amended in 1913. (Acts of 1913, p. 916).
However, the amendment has nothing to do with the question
you have submitted.

In 1915 by an Act approved March 8th, 1915, the Legisla-
ture enacted the Indiana Workmen’s Compensation Act, and
created a Board to administer the Act known as the Industrial
Board. (Acts of 1915, p. 392, et seq.). Section 52 of this
provided as follows:

“The rights, powers and duties conferred by law
upon the state bureau of inspection of the State of
Indiana are hereby continued in full force and are
hereby transferred to the industrial board hereby
created and shall be held and exercised by them under
the laws heretofore in force and the said state bureau
of inspection is hereby abolished.

“The present chief inspector of said state bureau of
inspection is hereby made a member of said industrial
board until the expiration of one year from the date
of the taking effect of this act and until his successor
is appointed and qualified. The deputy inspectors
heretofore appointed by the governor as deputy in-
spectors in said state bureau of inspection, to-wit:

“Inspector of buildings, factories, and workshops,
inspector of boilers and inspector of mines and mining,
together with their assistant inspectors, are hereby
continued in their respective offices, at their present
salaries, until the expiration of the terms for which
they are respectively appointed and until their successors are appointed and qualified and each of them respectively shall have and perform all the rights, powers and duties now held and performed by each of them respectively, together with such other rights, powers and duties as may be prescribed by said industrial board. Upon the termination of said terms of office for which said deputy inspectors have been appointed, said industrial board, with the concurrence of the governor, shall appoint their successors to serve during the pleasure of said industrial board.”


Section 53 of the same Act provided as follows:

“All the rights, powers and duties of the labor commission of the State of Indiana, heretofore created and subsequently transferred to and vested in the state bureau of inspection, are hereby abolished.”


The effect of these provisions was to abolish the State Bureau of Inspection and also the Labor Commission and to vest in the Industrial Board duties of the Bureau of Inspection. A similar provision appears in the 1929 Workmen’s Compensation Act. (Acts of 1929, p. 555). These Acts, however, do not repeal the Act of 1911, supra, as amended in 1915, except to the extent that it abolished the Board or Bureau charged with the duties of enforcement and placed that duty upon the Industrial Board. The provisions of Section 2 of the 1911 Act, as amended in 1913, and of Sections 3, 4 and 5, so far as they prescribe duties and powers remain, therefore, for the purpose of defining the duties of the Industrial Board under both the 1915 and the 1929 Acts. It will be observed, however, that none of the provisions of these Sections have to do with the duties and obligations imposed upon persons, firms or corporations subject to the Act. Those provisions occur in Sections 6 and 7 as amended in 1915, Section 6 providing that the license year shall begin July 1, each year and end June 30, and providing that the inspector
shall submit to each person, firm or corporation subject to the
Act, a blank form upon which such person, firm or corporation
shall report certain information as to who the officers are, as
to the character and location of the business, as to the number
of persons employed, as to the number of work hours per
week and as to the inspection of buildings and equipment,
number of floors, elevators, boilers and fire escapes and such
other facts as the Chief Inspector may require.

Section 7 of the 1911 Act, as amended in 1915, also pre-
scribe duties of persons, firms and corporations subject to the
Act, requiring them to pay an annual license fee according to
the schedule set out and fixing a penalty for failure to comply
with the Act, making such offender subject to a fine of $50.00.

This latter Section, Section 7, supra, was expressly re-
p. 1440.) This is Section 42-1302 of Burns’ Indiana Statutes
Annotated, 1935, so that in answering your question it is
apparent that the above Section 42-1302 has been expressly
repealed.

The question now arises, in view of the foregoing, as to
what becomes of Sections 42-1301, 42-1303 and 42-1304 of
Burns’ Indiana Statutes Annotated, 1935.

Section 42-1305, supra, requires the Chief Inspector to keep
a record of all fees collected under the Act and to pay the same
into the State Treasury. However, with the repeal of Sec-
tion 7, supra, no fees are collected and this Section must be
held to be inapplicable.

As to Section 42-1304, its provision is to the effect that
nothing contained in the Act shall affect, amend, repeal or
alter in any way the present inspection laws of the State
except as set out in the Act. From its character it appears
to me to be rather unimportant as to whether it is repealed
or not. It probably is not, which brings me to a consideration
of the question involved in your letter as to what becomes of
Section 42-1301.

It seems to me that the repeal of Section 7, supra, makes
Section 42-1301 of no particular consequence, and at least
makes it impossible to enforce it. With the penalty provision
gone by the repeal of Section 7, supra, it appears to me that
Section 42-1301 should be regarded as impliedly repealed so
far as it deals with the duties of persons, firms and corpora-
tions subject to the provisions of the Act.