

the above section provides that the local authorities cannot place or maintain any traffic control devices upon any highway in the State highway system or the state maintained routes thereof through an incorporated city or town until they have received written permission of the State Highway Commission. It is my opinion that such traffic control signals that meet with the approval and specifications of the State Highway Commission that are now installed on State highway routes through incorporated cities and towns, are to be operated and maintained by the State Highway Commission. It is further my opinion that the title to such signals remains in the city and did not pass under the above provisions to the State.

You state in the second paragraph of your request that the authorities of these cities desire to remove certain signals which would necessitate the purchase and erection of other signals by the State Highway Commission of Indiana. It is my opinion that while the cities own the signals, if they meet the specifications and requirements of the State Highway Commission, they could not remove said signals, but the operation and maintenance of said signals comes under the jurisdiction of the State Highway Commission for the purpose of operation, but title to same remains in said cities.

It is my further opinion that there is no conflict between section 2 of chapter 266 of the Acts of the General Assembly of the State of Indiana of 1937 and the above section quoted, being section 31 of the Acts of 1939.

SECRETARY OF STATE: Provision in articles of Not For Profit corporation of insurance agents preventing members from representing companies not belonging thereto not contrary to insurance law.

December 22, 1939.

Hon. James M. Tucker,
Secretary of State,
State House,
Indianapolis, Indiana.

Dear Sir:

I have before me your letter of December 14th, with enclosures, in which you state that an association of insurance agents, heretofore incorporated under the Indiana Not For

Profit Act of 1935, has filed in your office Articles of Amendment of its original Articles of Incorporation. You call attention to, and set out in your letter, one of the paragraphs of such Articles of Amendment, reading as follows:

“No member of this Association shall represent any Fire, Casualty and/or Surety Insurance Company, nor any Underwriters Department or Agency of such Company, nor any affiliate of such company, that is represented either directly or indirectly in an agency in and for Evansville, Indiana, and vicinity, that is not a member of this Association.”

You inquire as to whether the provisions of the foregoing paragraph would amount to a violation of any of the insurance laws of the state.

The evident purpose of the paragraph, especially when read with the last sentence of paragraph one on the second page of such Articles of Amendment, is to circumvent the provisions of section 2 of chapter 46, page 281, Acts of 1937, which provides in substance, insofar as is pertinent to this inquiry, that it shall be unlawful for insurance agents to enter into any contract or arrangement with one or more insurance companies to refrain from representing any other insurance company or companies writing the same class or classes of risks. Upon careful study of the provisions of such chapter 46, it is my conclusion that while the paragraph in question may violate the spirit of the law as enacted by chapter 46, it does not, as the law is constructed, violate the actual terms or provisions thereof since contracts or arrangements by agents with insurance companies only are prohibited.

The paragraph in question in no way violates any anti-trust or monopoly statute of the State.

It is therefore my opinion that you are authorized to approve the Articles of Amendment with the inclusion of this paragraph.