

CONSERVATION DEPARTMENT: Interpretation of fur buyers' license act of 1931; who must have license.

September 26, 1933.

Hon. Kenneth M. Kunkel,
 Director, Fish & Game Division,
 Conservation Department,
 Indianapolis, Indiana.

Dear Sir:

I have before me your letter of September 25, 1933, in which you submit the following questions:

"1. Can an individual, being licensed under the Fur Buyers' Act, appoint agents or employees for buying fur for him and without themselves having licenses?

"2. The law provides for a resident license at \$10.00 and for a non-resident license, \$50.00. It also provides that a license may be issued to a firm. In the case of a partnership, organized in good faith, where one of the partners is a resident of Illinois, what fee shall be charged and should the license be a resident or a non-resident one?

"3. In the case of a corporation which is licensed under the act, may its agents buy or sell furs under the corporation's license without securing individual licenses for themselves.

"4. In cases of a licensed corporation might such agents buy fur on commission?

"5. In case of a corporation which is licensed, could such agents lawfully buy fur with their own fund and resell to the corporation?

"6. In case of a licensed corporation could such agents lawfully buy fur by giving the corporation's checks or paying the corporation's money therefor?

"7. In the case of a licensed firm or partnership, may agents of the firm other than the partners themselves lawfully buy fur without a license?"

Section 6 of the act (chapter 160, Acts 1931), defines a "buyer" within the scope of the act as "any person who buys direct from the trapper, with the intention to sell and who does sell to another in this state, or elsewhere or *who acts as*

the agent of another in this state in such purchase." (My Italics.) The answer to your first and third questions, must be in the negative.

Section 6 of the act also defines a "resident buyer" as "any person who for a period of not less than twelve months prior to the date on which, he applies for a license was a bona fide resident of this state." Subsection (c) says: "The term 'person' shall be construed to mean and include person, persons, *firms* and corporations." (My Italics.) It is my opinion that the term "resident" as applied to a firm or partnership must be construed as having contemplated the *situs* of the firm or partnership, or the location of its principal place of business. Therefore, in the case of such a partnership as you mention in your second question, the fee for which the partnership would be liable would be \$10.00, if its principal place of business can be substantially fixed as having been located within this state for a period of twelve months or more immediately prior to the date of application, while otherwise, the fee would be \$50.00, and this result is reached regardless of the respective places of residence of the individual members of the firm.

I understand your fourth question as asking whether or not an agent buying fur on commission for a corporation which holds a license, must also secure a license before acting as such commission agent. The answer is governed by the same provisions of the law as quoted above in answer to your first and third questions, and is in the affirmative. Whether, by virtue of his commission contract, he should be considered as a principal or as an agent would be immaterial.

Likewise, the fact that an agent might purchase fur with his own funds and re-sell to a licensed corporation, as mentioned in your fifth question, would not excuse such agent from procuring a license under the act; nor would the fact that the fur is paid for by the corporation's money or checks, as mentioned in question six, alter the result.

Question seven is covered by the language of the act relative to "agents" and is answered in the negative.