INDUSTRIAL BOARD: Private Employment Agencies—
Must comply with statutory assignments of contracts
and follow terms of statute. 

May 15, 1936.

John F. White, Supervisor,
Private Employment Agencies,
404 State House,
Indianapolis, Indiana.

Dear Sir:

This office acknowledges receipt of your request which reads
as follows:

"A private employment agency has submitted to this
department a proposed contract to be made by appli-
cants for employment, in which a clause appears com-
mittng the applicant to an agreement, if satisfactory
with the employer, and is so previously arranged, em-
powering said employer to retain an agreed amount
at stated periods from the wages of the employee, to
be used to pay the employment agency the fee for
placement of said employee.

"Does such a proposed contract come within the law,
and can an employee authorize the retention of any
part of such wages by agreement with the employment
agency, in which act the employer must also agree?"

The Acts of 1909, beginning at page 76, provide in substance
as follows:

Section 1 defines a wage broker.

Section 2 defines a legal assignment. This section in sub-
stance says that no assignment is legal unless it be for a fixed
or definite part of the salary earned or to be earned during
a period not exceeding thirty days immediately following the
date of the assignment. A post-dated assignment or a date
other than the date of its actual execution are both void.

Section 3 of the Act provides that no wage broker shall
receive, either as compensation or interest in any manner,
any compensation for the use of the money advanced or loaned
by him to any employee or wage earner in excess of 8%.

Section 4 of the Act provides that no assignment of his
wages or salary by a married man, who is the head of a
family residing in this state, shall be valid or enforceable without the consent of his wife, evidenced by her signature to said assignment executed and acknowledged before a Notary Public. And further, that no wage broker or person connected with him directly or indirectly shall be authorized to make such acknowledgement.

Section 5 of the Act provides that no assignment of wages or salary shall be valid or enforceable unless notice of writing of the same is accompanied by a copy of the assignments and shall be given to the employer or debtor within ten days from the date of its execution.

Section 7 of the Act provides a penalty for violation of the assignment law.

You will find these above provisions in the Act of the Legislature of 1909, beginning on page 76. Also, Sections 10017-10024, Baldwin's 1934 Indiana Statutes, Annotated.

From the above the following is noted: That assignments such as mentioned in your letter under certain conditions may be legal; the important part of the subject matter, you will note, is that the assignments must be in compliance with the statute and that they must be limited to the times, place and terms set out in the Act of 1909.

By reason of the explanation and the law governing the subject, the second paragraph of your letter fades in importance. I think that the above statute answers your second paragraph. The authorization spoken of is limited and must be in conformance with the statute.

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GROSS INCOME TAX AND STORE LICENSE DIVISION:
Taxation—Failure to pay gross income tax is not ground for withholding license from applicant under Alcoholic Beverage Control Act.

May 15, 1936.

Mr. John T. Sexton,
Gross Income Tax Division,
Department of Treasury,
Indianapolis, Indiana.

Dear Sir:

I have before me your request that an official opinion issue in response to the following inquiry: