

other contagious diseases, or who is subject to epileptic or other fits, and he must be possessed of that degree of bodily health which would render him a fit subject for the discipline of said institution. And it shall be the duty of the court committing him to cause said boy to be examined by a reputable county physician, who shall certify to the above facts, which certificate shall be forwarded to the institution with the commitment."

It is my opinion that this provision is mandatory and that you would also be authorized to reject the commitment unless accompanied by the doctor's certificate as required.

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**OIL INSPECTION DEPARTMENT: Whether naphtha and distillate are required to be inspected.**

October 13, 1937.

Hon. Presley J. L. Martin,  
Chief Oil Inspector,  
Department of Audit and Control,  
State House,  
Indianapolis, Indiana.

Dear Mr. Martin:

I have before me your request for an official opinion on the question as to whether naphtha and distillate used exclusively in the manufacture of paints, varnishes, lacquers and kindred products, are subject to inspection by the department of audit and control, pursuant to chapter 289 of the Acts of 1937.

The above Act makes it unlawful for any person "to sell, offer for sale, or use any *petroleum product* within the State of Indiana unless and until the same has been inspected and approved for sale or use by the *department* as hereinafter provided." (Our italics.)

Acts of 1937, p. 1328.

The Act also makes it the duty of every person upon the receipt of uninspected "*petroleum products*" within the State of Indiana for sale or use in said state to immediately notify the "department," whereupon it becomes the duty of the depart-

ment to cause said products to be inspected as thereafter in the Act provided.

Acts of 1937, p. 1328.

I have italicized the terms "department" and "petroleum products" for the purpose of calling attention to said terms as specifically defined in the Act. The word "department" is defined in the Act to mean "the department of audit and control" and the term "petroleum products" is defined to mean and include "gasoline, naphtha, kerosene, distillate, fuel oil and like products of petroleum under whatever name called, including benzol and other similar products used, or which may be used, in the blending of motor fuel, but the same shall not include lubricating oils."

Acts of 1937, p. 1327.

It appears from the foregoing that the product known as "naphtha" and the product known as "distillate" are both within the meaning of "petroleum products" as that term is used in the Act.

In view of the fact that other sections of the Act make it unlawful to sell, offer for sale or use any "petroleum product" within the state and requires the "department" to inspect any uninspected "petroleum products" which are to be sold or used in the state, I think it is clear that naphtha and distillate are both subject to inspection by the department of audit and control, pursuant to the above Act.

The language "used, or which may be used, in the blending of motor fuel," as used in the foregoing definition of "petroleum products," clearly applies simply to the preceding words "other similar products." However, if it be granted that such language modifies the other portions of the definition, both naphtha and distillate would be included because even as applied to "other similar products" it is not only those which are actually used in the blending of motor fuel which are included within the term "petroleum products" but those "which may be used" in the blending of motor fuel. If this is not true, and it be held that a use for other than motor fuel takes the specifically named articles out of the inspection requirements of the Act, it would eliminate from inspection large quantities of kerosene which is used for lighting purposes and is not used in the blending of motor fuel. This is not the intent of the Act.

The intent of the Act is to include within the term "petroleum products" all other similar products to those specifically named which are actually used or which *may* be used in the blending of motor fuel. I think there is no reasonable doubt of the fact that both naphtha and distillate *may* be used in the blending of motor fuel.

In whatever way the question is approached and whatever may be the view taken of it, I think the language of the Act very definitely includes naphtha and distillate which is kept for sale or use within the State of Indiana as subject to inspection under its terms.

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**TAX COMMISSIONERS, STATE BOARD OF: County agents,  
amount authorized for expenses.**

October 13, 1937.

Hon. Philip Zoercher, Chairman,  
State Board of Tax Commissioners,  
231 State House,  
Indianapolis, Indiana.

Dear Sir:

This will acknowledge receipt of your letter of October 9 in which you submit the question as to whether or not the mandatory appropriation of \$1,000.00 per year, which in the language of the statute "shall be used in paying office help, expenses of the county agent, mileage, rent or other incidental expenses," is broad enough to include and does include office equipment such as a typewriter and mimeograph.

In reply to this question your attention is directed to that portion of section 28-4911, Burns Indiana Statutes, 1933 revision, which reads as follows:

"The county council shall appropriate, annually, not less than one thousand dollars (\$1,000), which shall be used in paying office help, expenses of the county agent, mileage, rent or other incidental expenses. The county council may make additional appropriations for the salary and other additional expenditures of the county agent."

It will be noted from a reading of the above statute that the annual appropriation of \$1,000.00 shall be used in paying office