

department of weights and measures. I note that your department collected this money prior to the time when the 1935 Act above quoted, became effective. It is possible that this money was collected under some one of the Federal Acts having to do with the loaning of federal funds to farmers and stock men for agricultural purposes. You doubtless have in your files the authorization for the collection of this money. If you will furnish me with this additional information perhaps I can answer your fourth question.

MOTOR VEHICLES, BUREAU OF: Duplicate weight tax plates; special service charges by branch offices.

October 29, 1937.

Hon. Frank Finney, Commissioner,
Bureau of Motor Vehicles,
Indianapolis, Indiana.

Dear Sir:

This is in answer to your request of October 25, 1937, for an opinion as to the legality of certain rules and regulations which your bureau proposes to adopt providing for the furnishing of duplicate weight tax plates in the event of a loss of such plates by a motor carrier, and, also, providing that the weight tax payable under the 1937 Act may be paid, and a plate provided at one of your branch offices instead of requiring the plates to be obtained at the main office in Indianapolis.

Your first question is as follows:

“In the absence of any provision in the new Weight Tax Law for the issuance and collection of a fee for duplicate plates, may the department provide and charge for such plates in the same manner as duplicate license plates are provided and charged for under the Registration and Licensing Act?”

As you state in your letter, it is provided in the Registration and Licensing Act of 1925, page 570, chapter 213, section 6, that in the event of a loss of a license number plate your department may furnish a duplicate plate upon a proper showing; and the 1937 amendment of the Registration and

Licensing Act provides that the fee for owner's duplicate plates shall be \$.50 for each plate. (Acts 1937, page 1252, chapter 271, section 3.)

The Weight Tax Statute is an entirely different Act from the Registration and Licensing Act and makes no provision for the furnishing of any duplicate weight tax plate. In the absence of any provision authorizing your bureau to issue duplicate plates at a reasonable price, the question arises whether the motor carrier is required to proceed and secure a duplicate plate by the same process that the original plate was secured. This, it seems to me, would be unreasonable and not contemplated by the legislature.

Subsection (b) of section 8 of the Motor Vehicle Weight Tax Act of 1937 reads as follows:

"The department of treasury is hereby authorized to make, promulgate, alter, amend or repeal rules and regulations for the purpose of carrying out the provisions of this Act."

It is my opinion that this subsection (b), authorizing your department to make rules and regulations read along with the other provisions of the Act, permits you to adopt a regulation by which you may issue duplicate weight tax plates and collect a reasonable charge for each plate. Your first question is answered in the affirmative.

Your second question is as follows:

"May the department promulgate a rule in which it will be stated that the plates *will be available* at the central office of the department, in the Statehouse, but provided further that the department will render a service not required by law and make the weight tax tags available at branch offices on condition that an applicant for such service be charged a service fee of \$.25 which shall be retained by the branch manager?"

The branch offices which your department has set up in the various cities and towns throughout the state have been established, as your letter states, so that a prompt and satisfactory service may be rendered to the citizens of this state and so that motor carriers and owners of automobiles will not be required to come or send to Indianapolis in order to secure their reg-

istration plates and attend to other matters in connection therewith.

The only provisions made for the compensation of the managers of these branch offices and the upkeep of the branches are the statutory provisions by which certain fees are to be retained by the branches for the particular services they are required to perform. No other compensation or expense is provided for.

The Motor Vehicle Weight Tax Act of 1937 contains no direct provision which authorizes the branch offices to issue weight tax plates or to make any charge for that service. You state in your letter that the authority for the collection of service fees may be found in section 2 of the Registration and Licensing Act, Acts of 1925, page 570 (as amended, Acts of 1937, page 1252). And you also say that the Motor Vehicle Weight Tax Act of 1937 does not provide a service fee in event weight tax tags are purchased at a branch office. However, section 8, subsection A of the Act provides that "The department of treasury *shall provide* proper application blanks and *shall furnish* a distinctive metal plate at the time of registration * * *."

I believe it is implied by the language of the 1937 Weight Tax Act, and especially by that provision quoted above which authorizes your department to make rules and regulations to carry out the provisions of the Act, that weight tax plates may be made available through the branch offices upon the condition stated in your second question, that is, upon payment of a charge of twenty-five cents to be retained by the branch manager for this particular service not otherwise provided for. Motor carriers, of course, may obtain the plates at your Indianapolis office without paying the extra twenty-five-cent service cost. In that view of the statutes, it is my opinion that your second question should also receive an affirmative answer.