

2159.

ENTERTAINMENT — CHARGE BY PROBATE JUDGE FOR PERMIT—PUBLIC DANCE, ROLLER SKATING, ETC.—\$5.00—SECTIONS 13393, 10501-42 G. C. — PERIOD OF TIME — MORE THAN ONE FORM OF ENTERTAINMENT.

SYLLABUS:

1. *The charge to be made by a Probate Judge for a permit for a public dance, roller skating or like entertainment, under Section 13393, General Code, shall, by the provisions of Section 10501-42, General Code, be five dollars.*

2. *A permit issued by a Probate Judge under the authority of Section 13393, General Code, may be for such period of time as the Probate Judge issuing the same may designate.*

3. *Such permit may, by its terms, permit the giving of more than one form of entertainment.*

Columbus, Ohio, April 8, 1940.

Hon. Marcus Shoup, Prosecuting Attorney,
Xenia, Ohio.

Dear Sir:

This will acknowledge receipt of your request for my opinion, which reads in part as follows:

“The Probate Judge of this County has requested me to obtain a ruling from you pertaining to certain questions relative to Section 13393 of the Ohio General Code, which is the provision concerning permits to be issued by the Probate Court for public dances and roller skating. The questions he has requested me to submit to you are as follows:

1. What charge, if any, should be made for a dance permit and a roller skating permit?

2. Should the charge be for each day's use or should it be on a yearly basis?

3. Should a dance permit and a roller skating permit be included in one permit and only one charge made, or should they be issued two separate permits?”

Section 13393, General Code, reads as follows:

“No person shall give a public dance, roller skating or like entertainment in a city, village or township without having previously obtained a permit from the mayor of such city or village if such public dance, roller skating or like entertainment is given within the limits of a municipal corporation, or from the probate judge if such public dance, roller skating or like entertainment is given outside a city or village, or permit another so to do. All permits issued under the authority of this section shall be subject to revocation at all times. The provisions of this section shall not apply to charter cities where the licensing authority is vested in some other officer than the mayor.”

Your first question is answered by the specific provisions of Section 10501-42, General Code, which reads in part as follows:

“The fees enumerated in this section shall be charged and collected, if possible, by the probate judge and shall be in full for all services rendered in the respective proceedings.

* * *

47. Issuing permit for public dance hall, etc., under G. C. 13393..... \$5.00.”

The answer to your second question is contained in an opinion rendered by the then Attorney General in 1932 (O. A. G. 1932, Vol. 1, p. 201. In said opinion it was stated:

It is apparent from the express language above quoted that while a permit is required for each public dance given, it does not necessarily follow that said permit may not by its terms include several public dances, and in view of the fact that no restriction is placed in said section as to the number of dances authorized by a permit, it follows that any number of dances may be included within the authorization. See 1925 Opinions of the Attorney General, 285. This conclusion is strengthened by consideration of the fact that authority is contained in said section to revoke such permit at any time.”

Coming now to your third question, it will be noted that Section 13393, supra, provides that no public dance, roller skating or like entertainment shall be given without having first obtained a permit therefor. Nothing contained therein prohibits the issuing of a permit to include more than one form of entertainment. In fact, the words “Issuing permit for public dance hall,” etc., contained in Section 10501-42, General Code, seem definitely to recognize the right to issue one permit for more than one form of entertainment.

In specific answer to your questions, therefore, I am of the opinion that:

1. The charge to be made by a Probate Judge for a permit for a public dance, roller skating or like entertainment, under Section 13393, General Code, shall, by the provisions of Section 10501-42, General Code, be five dollars.

2. A permit issued by a Probate Judge under the authority of Section 13393, General Code, may be for such period of time as the Probate Judge issuing the same may designate.

3. Such permit may, by its terms, permit the giving of more than one form of entertainment.

Respectfully,

THOMAS J. HERBERT,
Attorney General.