

4355.

LICENSE—CONSERVATION COUNCIL MAY FURNISH HUNTERS' AND TRAPPERS' LICENSE IN BUTTON FORM—MAY NOT REQUIRE BUTTON TO BE WORN ON CLOTHING.

SYLLABUS:

1. *The conservation council may prepare and furnish hunters' and trappers' licenses in button form so long as the same affords facilities for the placing thereon of the endorsements required by law.*

2. *The conservation council has no authority to compel a hunter to wear a license button on the back of his clothing or any other place designated by council.*

COLUMBUS, OHIO, May 23, 1932.

HON. WILLIAM H. REINHART, *Conservation Commissioner, Department of Agriculture, Columbus, Ohio.*

DEAR SIR:—Your recent request for my opinion reads as follows:

“By action of the Conservation Council, I am requesting you to give your opinion on the following:

Section 1434 reads in part as follows: ‘Every person shall, while hunting or trapping, carry with him his license and exhibit same to any game protector,’ etc.

It has been the desire, after studying the system in various other states, to issue a celluloid button with the number, etc., on it to be worn on the back of the hunter, which would be conspicuous at quite a distance.

In the face of the above part of the law setting forth that the hunter or trapper shall exhibit his license upon request, and since it is agreed that Council is responsible for the policy, rules and regulations of this Division, could it be required as compulsory for the hunter to wear the license button on the back of his clothing or any other place Council might designate?”

Section 1432, General Code, relative to the issuance of hunters' and trappers' licenses, etc., provides in part as follows:

“ * * * The application, license and other blanks required by this act shall be prepared and furnished by the conservation council and such blanks shall be of different color each year and in such form as such council may prescribe to the clerk or deputy authorized to issue same, and such license shall be issued applicants by said clerks, or deputies.”

From a reading of the above language, the duty is placed upon the conservation council to prepare and issue hunters' and trappers' licenses, and it impliedly follows therefrom, in view of the lack of any statutory regulation as to the size and form of the license, that the conservation council may prepare hunters' and trappers' licenses in any reasonable form or manner. It follows therefrom that if in their opinion it is reasonable that a hunter's license button be issued in such form as will afford opportunity for the stamping thereon of the various endorsements and seals necessary to legal issuance, such as the seal of the clerk of the

common pleas court, or village or township clerk, as required by sections 1432, 1433, et seq., then the same could be legally promulgated by the conservation council.

As to the question as to whether or not the conservation council could compel a hunter to wear a license button on the back of his clothing or any other place that council might designate, it should be noted that section 1434, quoted in part in your communication, requires that every person "shall while hunting or trapping, carry with him his license and exhibit same to any game protector, constable, sheriff, deputy sheriff, or police officer, or the owner or person in lawful control of the land upon which he may be hunting or trapping or to any person, and failure and refusal to so carry or exhibit his license shall constitute an offense under this section."

The word "exhibit," when used in the above section, does not in my opinion require a continuous display of the license in question, but that upon request of any person mentioned in the above quoted section authorized to demand the same, the license must at that time be displayed.

To hold that the conservation council may compel the wearing of a hunter's license button on the back of the hunter's clothing or elsewhere, would be in effect to allow the conservation council, by rule or regulation, to enact a penal statute. This would be true, since section 1454 of the General Code provides, after setting forth specific penalties for the violation of specific sections, in which section 1434 it not mentioned, that whoever violates any of the other provisions of this chapter of the General Code, unless otherwise provided, shall be fined not less than twenty-five dollars or more than two hundred dollars, and the cost of prosecution, etc.

In view of the foregoing, and in specific answer to your inquiry, I am of the opinion:

1. The conservation council may prepare and furnish hunters' and trappers' licenses in button form so long as the same affords facilities for the placing thereon of the endorsements required by law.

2. The conservation council has no authority to compel a hunter to wear a license button on the back of his clothing or any other place designated by council.

Respectfully,

GILBERT BETTMAN,
Attorney General.

4356.

APPROVAL, CONTRACT BETWEEN STATE OF OHIO AND ROBERT H. EVANS AND COMPANY, COLUMBUS, OHIO, FOR CONSTRUCTION AND COMPLETION OF ADDITION TO ENGINEERING EXPERIMENT STATION, OHIO STATE UNIVERSITY AT EXPENDITURE OF \$65,102.00—SURETY BOND EXECUTED BY THE UNITED STATES GUARANTEE CO., OF NEW YORK.

COLUMBUS, OHIO, May 25, 1932.

HON T. S. BRINDLE, *Superintendent of Public Works, Columbus, Ohio.*

DEAR SIR:—You have submitted for my approval a contract between the State of Ohio, acting by the Department of Public Works, for the Ohio Department of Highways, and the Robert H. Evans & Company of Columbus, Ohio. This con-