

State University, Bowling Green, Ohio, as set forth in Item 2, Contract for Equipment (For Main Kitchen, Cooperative Kitchen and Miscellaneous) of the Form of Proposal dated July 24, 1939, all according to Plans and Specifications, which Plans, Specifications and Proposal are made a part of this Contract. This contract calls for an expenditure of \$4,114.00.

You have submitted the following papers and documents in this connection: Form of Proposal containing the contract bond signed by the New York Casualty Company of New York; its power of attorney for the signer; its certificate of compliance with the insurance laws of Ohio relating to surety companies; division of contract; estimate of cost; tabulation of bids; revised notice to bidders; proof of publication; Certificate of Availability of funds; Workmen's Compensation Certificate showing a compliance with the laws of Ohio relating to Workmen's Compensation; recommendations of State Architect; approval of P.W.A.; certification of Mr. F. J. Prout, President of Bowling Green State University, as to resolution of Board of Trustees of Bowling Green State University directing the award of this contract to Steger Showel Company; letter from Auditor of State, showing all necessary papers are on file in his office.

Finding said contract in proper legal form, I have noted my approval thereon, and same is transmitted herewith to you, together with all other papers submitted in this connection.

Respectfully,

THOMAS J. HERBERT,  
*Attorney General.*

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1053.

BOARD OF LIQUOR CONTROL — FINES — SECTION 6064-64 G. C.—COLLECTED FOR POSSESSION OF LIQUOR WITHOUT SEAL OF SUCH BOARD—DISTRIBUTED: ONE-HALF TO STATE TREASURY: ONE-HALF TO COUNTY TREASURY—SITUS, PROSECUTION—SECTION 6064-5 G. C.

**SYLLABUS:**

*Fines arising from a prosecution under Section 6064-64, General Code, for the possession of liquor without the necessary seal of the Board of Liquor Control thereon shall be distributed one-half into the state treasury to the credit of the general revenue fund and one-half into the treasury of the county wherein the prosecution is held as provided in Section 6064-59, General Code.*

COLUMBUS, OHIO, August 18, 1939.

*Bureau of Inspection and Supervision of Public Offices, State House Annex, Columbus, Ohio.*

GENTLEMEN: You directed a request for an opinion to this office as follows:

“Section 6064-64, General Code, became effective September 5, 1935, and provides a fine for the possession of liquor in a bottle or container without the seal prescribed by the Board of Liquor Control, and was enacted about two years after the Liquor Control Act.

Section 6064-59, General Code, provides that all fines assessed for violation of any of the penal laws relating to the manufacture, importation, transportation, distribution or sale of liquor shall be paid one-half into the treasury of the state and one-half into the treasury of the county where the prosecution is held.

We respectfully request your opinion upon the following question:

Should fines collected for violations of Section 6064-64, General Code, be distributed as provided for in Section 6064-59, General Code?”

Section 6064-59, General Code, effective December 23, 1933, provides as follows:

“Money arising from fines and forfeited bonds collected under any of the penal laws of this state relating to the manufacture, importation, transportation, distribution or sale of beer or intoxicating liquor shall be paid one-half into the state treasury to the credit of the general revenue fund therein and one-half into the treasury of the county where the prosecution is held.”

Subsequently, there was enacted Section 6064-64, effective September 5, 1935, as a part of the Liquor Control Act, which made possession of liquor without the seal of the State Liquor Board thereon a misdemeanor. This section reads as follows:

“Whoever, not being the holder of a permit issued by the department of liquor control, in force at the time, and authorizing the same, has in his possession any intoxicating liquor in one or more bottles, containers or other receptacles of whatsoever kind or character, not having thereon the seal prescribed by the board of

liquor control, pursuant to the liquor control act shall, unless such intoxicating liquor shall have been lawfully acquired by him pursuant to the liquor control act, be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not less than twenty-five dollars nor more than two hundred dollars, or be imprisoned not less than ten days nor more than thirty days, or both.

The possession of such intoxicating liquor, in such bottle, container or other receptacle, shall be considered as prima facie evidence that the same was not lawfully acquired by the defendant pursuant to the liquor control act."

A question similar to yours arose in 1934 in connection with the enactment of Section 6064-54 of the Liquor Control Act wherein possession of beer or intoxicating liquor for the purpose of sale was made a misdemeanor and a fine was provided upon conviction. In 1934 Opinions of the Attorney General, No. 2990, Vol. II, at page 1144, it was held as follows:

"Money arising from fines paid by persons convicted of possessing beer or intoxicating liquor for the purpose of sale in violation of Section 6064-54, General Code, should be distributed as provided by Section 6064-59, General Code."

In that opinion it was stated that the provisions of Section 6064-59, General Code, relating to the distribution of money arising from fines can not be construed as evincing an intention on the part of the Legislature to enumerate only the particular offenses for which the distribution of the fines could be made. It was said at page 1145:

"The language contained in that section must be deemed as referring in a general way to all of the laws of this state which relate to the sale and distribution of beer and intoxicating liquor, the violation of which is subject to a fine."

It seems clear that the possession of liquor which does not bear the necessary seal of the State Liquor Board comes within the same classification. If there was any intention on the part of the Legislature to exclude this particular provision from the general terms of Section 6064-59, *supra*, the Legislature would have said so. In the absence of anything to the contrary, I am constrained to hold that fines arising under this provision of the law should also be distributed one-half into the state treasury to the credit of the general revenue fund and one-half into the treasury of the county wherein the prosecution is held.

I am, therefore, of the opinion that fines arising from the prosecution under Section 6064-64, General Code, for the possession of liquor without the necessary seal of the Board of Liquor Control thereon shall be dis-

tributed one-half into the state treasury to the credit of the general revenue fund and one-half into the treasury of the county wherein the prosecution is held as provided in Section 6064-69, General Code.

Respectfully,

THOMAS J. HERBERT,  
*Attorney General.*

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1054.

BONDS—CITY OF AKRON, SUMMIT COUNTY, \$10,000.00.

COLUMBUS, OHIO, August 18, 1939.

*Retirement Board, State Teachers Retirement System, Columbus, Ohio.*

GENTLEMEN:

RE: Bonds of the City of Akron, Summit County, Ohio,  
\$10,000 (unlimited).

The above purchase of bonds appears to be a part of an issue of sewage disposal bonds of the above city dated February 1, 1925. The transcript relative to this issue was approved by this office in an opinion rendered to your Board under date of April 27, 1937, being Opinion No. 531.

It is accordingly my opinion that these bonds constitute valid and legal obligations of said city.

Respectfully,

THOMAS J. HERBERT,  
*Attorney General.*

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1055.

BONDS—TOLEDO CITY SCHOOL DISTRICT, PUBLIC LIBRARY, LUCAS COUNTY, \$5,000.00.

COLUMBUS, OHIO, August 18, 1939.

*Public Employes Retirement System, Columbus, Ohio.*

GENTLEMEN:

RE: Bonds of Toledo City School District, Public Library,  
Lucas County, Ohio, \$5,000.

The above purchase of bonds appears to be a part of an issue of bonds of the above city school district dated December 1, 1938. The