

Some days after the approval of this lease to The Pure Oil Company I was advised that the parcel of abandoned Miami and Erie Canal land which was covered by this lease was and is the identical parcel of canal land which was leased and demised by the State of Ohio through you as Superintendent of Public Works to Charles F. Duffy. In this situation, I am required to advise you that the lease executed to Charles F. Duffy was and is a valid and subsisting contract by and between the State of Ohio and said Charles F. Duffy effecting a lease of this parcel of land to Charles F. Duffy as the lessee therein named for a period of fifteen years; and that, consequently, the later lease executed by you to The Pure Oil Company was and is invalid and without legal effect as an instrument for the lease of this property. In this connection, I am further advised that Mr. Duffy's copy of the lease executed to him has never been delivered by you. Although under the facts above stated it does not appear that such delivery was necessary to the legal validity of the lease as a contract between the State of Ohio and Mr. Duffy, he is clearly entitled to a copy of this lease; and I feel it to be my duty to advise you to forward to him a copy of the executed lease.

Respectfully,

HERBERT S. DUFFY,  
*Attorney General.*

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3452.

INITIATIVE PETITION—PROPOSED AMENDMENT TO SECTION 6064-15 G. C.—PERMIT TO SELL SPIRITUOUS LIQUOR AND WINE—CONSUMPTION OFF PREMISES—DISCOUNT—PURCHASE FROM OHIO DEPARTMENT OF LIQUOR CONTROL.

COLUMBUS, OHIO, December 27, 1938.

MR. WALTER BECKER, 2300 A. I. U. Bldg., Columbus, Ohio.

DEAR SIR: You have submitted for my examination a written petition signed by one hundred qualified electors of this state containing a proposed law and a summary of the same under Section 4785-175, General Code. Copy of said law and a summary of the same are attached hereto.

I am of the opinion that the attached summary is a fair and truthful statement of the proposed law and accordingly submit for uses provided by law the following certification:

“Without passing upon the advisability of the adoption of the proposed law and without passing upon the constitutionality of same, but pursuant to the duties imposed upon me under the provisions of Section 4785-175, General Code, I hereby certify that the attached summary is a fair and truthful statement of the proposed law. HERBERT S. DUFFY, Attorney General.”

#### SUMMARY

The proposed amendment to the law of Ohio, Section 6064-15, provides that the owner of a D-3 and/or D-5 permit in addition to being permitted to sell spirituous liquor and wine at retail by the individual drink in glass and from the container for consumption on the premises where sold only at tables where meals are served as now provided by the present law, shall be permitted to sell spirituous liquor and wine in containers and original packages of not less than sixteen ounces or more than thirty-two ounces for consumption off the premises, and that all such spirituous liquor shall be purchased from the Ohio Department of Liquor Control at a discount of twenty percent (20%) from the original retail selling price as maintained in state stores and agencies, and for a penalty for violation of selling for less than said retail price.

Respectfully,

HERBERT S. DUFFY,  
*Attorney General.*

3453.

LAND LEASED FOR TERM OF YEARS—FILLING STATION—  
WHERE BUILDING ERECTED BY LESSEE STIPULATED  
TO BE NOT A PART OF REALTY—TERMS BINDING BE-  
TWEEN LESSOR AND LESSEE—LAND AND BUILDING  
CARRIED ON TAX DUPLICATE AS “REAL ESTATE” OR  
“LAND”—SEE SECTION 5322 G. C.—TAX ADJUSTMENT  
BETWEEN LESSOR AND LESSEE—NOT FOR TAXING  
AUTHORITIES—STATUS OF PERMANENT LEASE, RE-  
NEWABLE FOREVER—RULE DIFFERENT—SUCH LEASE-  
HOLD REALTY.

#### SYLLABUS:

1. *Where land is leased for filling station purposes for a term of*