

543

MOTION PICTURE FILM—WHEN SUCH FILM SUBMITTED TO DEPARTMENT OF EDUCATION BY ANY PERSON OR COMPANY, FEE PAID, FILM HAS BEEN APPROVED AND CERTIFICATE ISSUED, NO FURTHER SUBMISSION OR PAYMENT OF FEE CAN BE REQUIRED OF ANY ASSIGNEE OR TRANSFEREE AS A CONDITION TO EXHIBITION—SECTION 154-47, G. C.

SYLLABUS:

When any person or company has, pursuant to the provisions of Section 154-47, General Code, submitted to the department of education a motion picture film and has paid the fee provided by said section, and said department has approved such film and has issued its certificate of approval, no further submission or payment of fee can be required of any assignee or transferee of said film as a condition to its exhibition.

Columbus, Ohio, November 5, 1945

Hon. Clyde Hissong, Superintendent of Public Instruction  
Columbus, Ohio

Dear Sir:

Your request for my opinion reads as follows:

“When a film submitted for censorship by a motion picture producer is approved, the Division of Film Censorship issues a certificate and the necessary leaders authorizing the picture to be shown anywhere in the State of Ohio, in accordance with the provisions of Sections 154-47 et seq. of the Ohio General Code.

Frequently, at some time subsequent to the censorship of the picture, the producing company may sell the picture to some independent company or individual.

The question we desire answered is: If a company which had submitted a picture for censorship and paid the censorship fee (\$3.00 per reel of a thousand feet of film or less), and to which there was issued both the certificate of approval to exhibit the picture in the State of Ohio, and the requested number of leaders, sells this picture to another company, is the original certificate and its authority to exhibit the picture in Ohio transferred to the company buying the picture or should this company be

required to submit the picture for censorship and pay the statutory censorship fee of \$3.00 per reel before it has the right to the use of leaders and to have a certificate issued in its name, giving it the legal right to exhibit the picture in the state?"

Section 154-47, General Code, provides :

"It shall be the duty of the department of education to examine and censor as herein provided, all motion picture films to be publicly exhibited and displayed in the state of Ohio. Such films shall be submitted to the department and passed and approved by it before they shall be delivered to the exhibitor for exhibition. The department shall charge a fee of three dollars for each reel of film to be censored which does not exceed one thousand linear feet and three dollars for each additional one thousand linear feet or fractional part thereof. All moneys so received shall be paid each week into the state treasury to the credit of the general revenue fund, except as otherwise provided in Section 154-47a of the General Code."

It will be noted that the only requirement of that section is that the film be submitted to and passed on by the department. There is no reference to the person submitting it and no requirement that he be given authority to exhibit the film. The owner of the film is not subjected to any examination or censorship.

Section 154-47b, General Code, provides as follows :

"Only such films as are in the judgment and discretion of the department of education of a moral, educational or amusing and harmless character shall be passed and approved by such department. When a film has been censored by the department of education a certificate showing the approval or rejection of such film shall be issued to the party submitting the film. When a film is passed and approved by the department of education such film shall be given an approval number which shall be shown on the certificate issued by the department of education to the party submitting the film. Such certificate shall also show the title of such film and all eliminations ordered from such film by the department of education. For each film so approved there shall also be issued by the department of education an official leader or stamp of approval of not less than five feet in length bearing the words 'Approved by the Ohio department of education' and the number assigned to such film on the certificate of approval. Such official leader or stamp of approval shall also

contain an outlined map of the state of Ohio with the great seal of the state of Ohio printed thereon. The department of education shall be authorized to recall any film for recensoring or to revoke any certificate permitting the exhibition of any film in the state of Ohio, whenever in the judgment of the department of education the public welfare requires it. Before any motion picture film shall be publicly exhibited all eliminations ordered by the department of education shall have been made by the person or persons loaning, renting or leasing such film or films to the exhibitor for exhibition, and there shall be projected upon the screen the design of the official leader or stamp of approval of not less than three feet in length, issued by the department of education for such film."

Here it is provided that after the film has been censored, a certificate showing the approval or rejection of the film shall be issued to the party submitting it. There is no suggestion as to who may exhibit it. The section further provides that for each film approved "there shall be issued" an official leader or stamp of approval, which must be projected on the screen when the film is publicly exhibited. Here, too, there is an entire absence of anything personal about the approval, the certificate or the leader.

Section 154-47d, General Code, reads as follows:

"No films may be publicly shown or exhibited within the state of Ohio unless they have been passed and approved by the department of education or the censor congress and stamped and numbered by the department of education, or censor congress, as provided herein."

Section 154-47e, General Code, provides a penalty for unlawful acts. It reads in part:

"Any person, firm or corporation who shall publicly exhibit or show any motion picture within the state of Ohio *unless it shall have been passed and approved* by the department of education shall upon conviction thereof, be fined" etc.

(Emphasis added.)

Further on, this section provides:

"Any person, firm or corporation who shall publicly exhibit or show any motion picture or film within the state of Ohio with-

out having first projected upon the screen the design of the official leader of stamp of approval of not less than three feet in length, assigned to such film as shown on the certificate issued by the department of education, shall upon conviction thereof be fined" etc.

The manifest purpose of the censorship law is to see to it that films which are to be shown to the public are "of a moral, educational or amusing and harmless character". That is the purpose quite clearly indicated in the statute from which I have quoted. When that has been accomplished by the examination and approval or disapproval of the film the purpose of the law has been fully accomplished. There is nothing in the law which in any way limits or regulates the sale or other disposition of an approved film, and no provision for exacting a second fee from an assignee of the original.

Specifically answering your question, it is my opinion that when any person or company has, pursuant to the provisions of Section 154-47, General Code, submitted to the department of education a motion picture film, and has paid the fee provided by said section, and said department has approved such film and has issued its certificate of approval, no further submission or payment of fee can be required of any assignee or transferee of said film as a condition to its exhibition.

Respectfully,

HUGH S. JENKINS

Attorney General