

1980

1. HOTELS OR INNKEEPERS—GENERAL CODE SECTIONS DO NOT REQUIRE REGISTRATION OF ALL GUESTS.
2. FALSE OR FICTITIOUS ADDRESS—TIME OF REGISTRATION IN HOTEL—NOT ENOUGH ALONE TO SUBJECT PERSON TO ANY PENALTY UNDER GENERAL CODE—IF ACT COMBINED WITH ELEMENTS OF FRAUDULENT INTENT OR WITH GIVING OF FALSE, FICTITIOUS OR ASSUMED NAME, IT MAY BE SUBJECT TO RESPECTIVE PENALTIES PROVIDED FOR IN SECTIONS 843-1a, 13131 G. C.

SYLLABUS:

1. The General Code does not require hotels or innkeepers to register all guests.
2. The giving of a false or fictitious address at the time of registration in a hotel is not enough alone to subject the person giving same to any penalty under the General Code; however, if it is combined with any of the elements of a fraudulent intent set out in Section 13131 of the General Code or with the giving of a false, fictitious or assumed name provided for in Section 843-1a of the General Code, then it may be subject to the respective penalties provided for in those sections.

Columbus, Ohio, June 30, 1950

Hon. Harry J. Callan, State Fire Marshal
Columbus, Ohio

Dear Sir:

Your request for my opinion reads as follows:

“Among the duties of the Fire Marshal’s Office is the administration of those laws pertaining to the licensing and inspection of hotels. In the course of these duties, two questions have arisen concerning the registration of guests at a hotel.

“1. Is there a statute requiring all hotels to register all guests?

“2. Is there any provision in the General Code of Ohio which provides a penalty for giving a false or fictitious address at the time of registration?

“Sections 843-1a and Section 843-1b refer to the subject in part but not fully.

“Sec. 843-1a. Whoever registers for accommodations at any hotel by a false, fictitious or assumed name without first making known to the person in charge thereof his true name shall for the first offense be fined not less than twenty-five dollars (\$25.00) nor more than two hundred dollars (\$200.00); and for a second or subsequent offense shall be fined not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00) and imprisoned not more than six months, or both.

“Sec. 843-1b. Any person employed by or connected with the management of a hotel, having knowledge of a false, fictitious or assumed name being registered at the hotel, and who fails, refuses or neglects to furnish information in relation thereto at any court of competent jurisdiction when called upon to do so, shall be punished as set forth in the foregoing section.

“Your considered opinion on this matter will be appreciated.”

As to the first question, a search of the General Code sections fails to disclose a statute requiring or directing that hotels and/or innkeepers register all guests, although it is common practice in the field to so do. See 22 O. Jur. 10 wherein the problem is discussed and the above position approved.

Two sections, wherein reference is made to registration, are Sections 843-1a and 843-1b of the General Code. These sections, however, relate respectively to criminal responsibility for registration under a false, fictitious or assumed name and to an employee's liability for neglect or refusal to convey knowledge of a false or fictitious registration when called upon to do so in a court of competent jurisdiction. They are therefore, being penal in nature, subject to the general rule that, “a strict construction is to be accorded to penal statutes,” 37 O. Jur. 744 and cases cited therein. Hence, any attempted inclusion within the context of either of the above mentioned sections of a requirement, making it mandatory for hotels and/or innkeepers to register all guests, would be contra to prevailing rule and policy relative to the construction and interpretation to be accorded penal statutes.

Regarding your second question the General Code does not specifically provide a penalty for the giving of a false or fictitious address at the time of registration in a hotel.

Section 843-1a, General Code, does provide a penalty for registration under a false, fictitious or assumed name, but it makes no reference

to the giving of a false or fictitious address, hence, it leaves open the question of whether or not address is normally included within the context of the word name. In this regard the general principle mentioned above, relative to the construction and interpretation to be accorded penal statutes, governs and precludes any speculation as to whether or not address is or can be included in the word name.

Section 13131, which specifically deals with the matter of defrauding innkeepers, reads as follows:

“Whoever, with intent to defraud, obtains food, lodging or other accommodations at a hotel, inn, boarding or eating house or private room in or pay-ward of a hospital or sanitarium, shall be fined not more than two hundred dollars or imprisoned in jail or a workhouse not more than three months, or both, or in the penitentiary not less than one year nor more than five years. Obtaining such lodging, food or other accommodation by fake pretense, or by false or fictitious show of pretense of baggage or other property, or refusal or neglect to pay therefor on demand, or payment thereof with negotiable paper on which payment was refused, or absconding without paying or offering to pay therefor, or surreptitiously removing or attempting to remove his baggage, shall be prima facie evidence of such fraudulent intent, but this section shall not apply where there has been an agreement in writing for more than ten days’ delay in such payment. The proprietor of such hotel, inn, boarding house, hospital or sanitarium shall keep a copy of this section printed in distinct type posted conspicuously in the office, ladies’ parlor or sitting room, washroom and five other conspicuous places therein or not less than ten such places in all.”

It will readily be observed that this section does not expressly provide that the giving of a false or fictitious address is to be deemed prima facie evidence of a fraudulent intent and hence it is to be assumed that standing alone such action would not be enough upon which to predicate an action under this section.

It is, therefore, my opinion that unless the giving of a false or fictitious address at the time of registration in a hotel be combined with any of the elements of an intent to defraud found in Section 13131, General Code, or with the giving of a false, fictitious or assumed name provided for in Section 843-1a, General Code, that there is no penalty provided for such action in the General Code.

Respectfully,

HERBERT S. DUFFY,
Attorney General.