

Superintendent of Insurance or other officer of the state where the foreign insurance company is incorporated that a deposit of \$100,000 as required by Section 9510-7, General Code, is made, are paid and extinguished.

Respectfully,

HERBERT S. DUFFY,
Attorney General.

776.

PRINTING ON ENVELOPES FOR LICENSE PLATES MAY
NOT BE DONE AT OHIO PENITENTIARY OR OHIO STATE
REFORMATORY.

SYLLABUS:

The printing on the envelopes used to contain motor vehicle license plates may not, in view of the provisions of Section 2205, General Code, be done and performed within the Ohio penitentiary at Columbus or the Ohio State reformatory at Mansfield, Ohio.

COLUMBUS, OHIO, June 23, 1937.

HON. MARGARET M. ALLMAN, *Director, Department of Public Welfare, Columbus, Ohio.*

DEAR MADAM: Your letter of recent date is as follows:

"Would you kindly render an opinion on the following matter?

On the 28th day of March, 1935, there was filed in the office of the Secretary of State, Columbus, Ohio, Amended S. B. 41, which in substance stated that the Ohio Penitentiary could only be permitted to do such printing as would be used at the Penitentiary, the Ohio State Reformatory at Mansfield, or the State Department of Public Welfare. At the present time the Division of Manufacturing and Sales, which is a division of the Welfare Department, carrying on certain industries within the Penitentiary in the manufacture of automobile tags, requires an envelope with certain printed matter thereon to further the sale of the tags.

In other words, the automobile tags could not be sold without having them encased in some kind of a paper receptacle.

The Manager of the Manufacturing and Sales Division, Mr. J. E. C., contends that the printing done on these envelopes is done for the Division of Manufacturing and Sales, which, in turn, is a part of the Welfare Department, and therefore comes within the law. Others claim that this printing is not done for the Manufacturing and Sales Division, but is done for the Division of Motor Vehicles.

Will you render a decision whether or not the Division of Manufacturing and Sales is within its right in furnishing the printed matter upon the envelopes used in the sale of the automobile tags to the Division of Motor Vehicles?"

Articles for the use of the state and its various departments are authorized to be manufactured in the penitentiary and correctional institutions of this state. This authority is within the exception of Article II, Section 41 of the Constitution of Ohio, containing a general inhibition against selling, farming out or giving away products of the labor of those sentenced to the several penal and reformatory institutions in the state. Section 134-57, General Code, provides that the Department of Public Welfare shall have and perform all the duties and functions of the old Ohio Board of Administration and that this department may assign labor of prisoners and inmates of institutions under that department on any public work of the state. Section 1847, General Code, referring to the Board of Administration, now the Department of Public Welfare, provides inter alia:

" * * * Whenever the board shall give written notice to the state purchasing agent or other official or officials having lawful authority to purchase such article or articles that it is prepared to supply them from any institution under its control, such state purchasing agent or other official or officials shall make any needed purchases of said articles from such institution * * *."

There follows certain exceptions to the foregoing requirement as to purchasing prison made goods by the various state departments not pertinent to a consideration of the question which you present.

It is clear that in the absence of special statute the printing of the envelopes to contain motor vehicle license plates would be properly done in the penitentiary. However, Section 2205, General Code, which you mention in your letter, provides as follows:

"Whatever printing or binding of any kind is done or performed within the Ohio penitentiary at Columbus, Ohio, or the

Ohio state reformatory at Mansfield, Ohio, shall be done and performed solely for the use of such penitentiary or reformatory or the state department of public welfare.”

This section was originally enacted by the 90th General Assembly, 113 O. L. 253, and, in so far as your question is concerned, in its original form was the same as amended by the 91st General Assembly, the amendment merely including within the purview of the section provision for binding and reference to the Ohio State reformatory at Mansfield.

It is apparent that the only authority for holding that the envelopes in question may be printed in the penitentiary or in the Mansfield reformatory must be based upon the assumption that such printing is for the Department of Public Welfare. You state that the Division of Manufacturing and Sales of your department is the authority which “requires an envelope with certain printed matter thereon to further the sale of the tags,” and that therefore it is contended that this printing is “done and performed solely for the use of * * * the State Department of Public Welfare.” No question is raised as to the power of the Division of Manufacturing and Sales to establish requirements as to what envelopes, if any, are to be made to further the distribution of motor vehicle license plates, or what, if anything, shall be printed thereon. Accordingly, no opinion is expressed as to this point. It is sufficient to observe for the purpose of this opinion that the state authority which distributes motor vehicle license plates is not the Department of Public Welfare but the Registrar of Motor Vehicles. Section 6294, General Code. The statutory specifications for motor vehicle license plates are provided by Section 6300, vesting certain discretionary powers as to designation of color, etc., in the Director of Highways in whose department the Bureau of Motor Vehicles has been placed by the General Assembly. Nowhere in the General Code do I find that these matters are in any way under the jurisdiction of the Department of Public Welfare and it is accordingly in my judgment perfectly obvious that whatever printing may be done on envelopes containing motor vehicle license plates regardless of by what authority such printing is ordered, is necessarily done for the Bureau of Motor Vehicles and should be paid for by the Bureau of Motor Vehicles—this printing is not “performed solely for the use of * * * the State Department of Public Welfare.”

Specifically answering your question, it is my opinion that the printing on the envelopes used to contain motor vehicle license plates may not, in view of the provisions of Section 2203, General Code, be

done and performed within the Ohio penitentiary at Columbus or the Ohio state reformatory at Mansfield, Ohio.

In your letter you inquire as to whether or not the Division of Manufacturing and Sales is within its right in furnishing the printed matter upon the envelopes in question and I have assumed that you have confined your inquiry as to whether or not such printing may be done at the penitentiary or the Mansfield reformatory since you refer to Section 2205, *supra*. It may be observed, however, that this last mentioned section refers only to these two institutions and it is assumed that other institutions under your jurisdiction are not equipped to do this printing. If this assumption is erroneous, it is obvious that such Section 2205 would have no application to printing to be done in some other institution and under the reasoning of the foregoing opinion, Section 1847, General Code, hereinabove referred to, would apparently be controlling.

Respectfully,

HERBERT S. DUFFY,
Attorney General.

777.

EFFECTIVE DATE, LAW PROVIDING FOR TAB LEVIES—
SUBSTITUTION OF WORD "MORE" FOR WORD "LESS,"
WHEN—LEVY AND COLLECTION OF TAKES, BY TAX
COMMISSION OF OHIO—SECTION 6212-48, GENERAL
CODE.

SYLLABUS:

1. Section 6212-48, General Code, as contained in Amended House Bill No. 501, passed by the 92nd General Assembly April 29, 1937, approved by the Governor May 20, 1937, and filed in the office of the Secretary of State May 24, 1937, is a law providing for tax levies, as that phrase is used in Section 1d of Article II of the Constitution of Ohio, and went into immediate effect when approved by the Governor.

2. In Section 6212-48, General Code, as amended by Amended House Bill No. 501, passed by the 92nd General Assembly April 29, 1937, approved by the Governor May 20, 1937, and filed in the office of the Secretary of State May 24, 1937, where provision is made in the first paragraph that, "*** a tax is hereby levied on *** beverages containing more than 3.2 per centum but not less than 7 per centum of alcohol by weight ***", an error is apparent, and the word "more" will be deemed substituted or supplied in place of the word "less" so that this will here-