



1963

Digest of Attorney General Opinions

North Dakota Law Review

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DIGEST OF ATTORNEY GENERAL OPINIONS

SUSPENSION OF DRIVER'S LICENSE — UNSATISFIED JUDGMENT

August 7, 1963

Whether a driver who has had his driver's license suspended for failure to satisfy a judgment of a private party under the provisions of section 39-16-13(4) is entitled to be issued a license upon proper application after the judgment against him has lapsed?

The opinion states: "It has been held that a statute legislature had in mind to deprive any person indefinitely, (lifetime in some cases), from ever being permitted to drive without first satisfying a judgment regardless whether such judgment is enforceable or unenforceable. The opposite view would indicate that a debt must be paid as a condition (to) being permitted to obtain a driver's license. The latter view if followed implicitly would cast some doubt as to the constitutionality of the law."

LICENSING OF TRADE AND CORRESPONDENCE SCHOOLS— ENFORCEMENT OF CONTRACTS

July 22, 1963

Whether a contract with a trade or correspondence school not licensed in this state according to section 15-50-02 is legally enforceable?

The opinion states: "It has been held that a statute prohibiting every person without a license from practicing a profession renders the contract of an unlicensed person for professional services unenforceable, even though the statute imposes no penalty for its violation." 33 Am. Jur. *Licenses*, § 70 (1941)."

"It is therefore our opinion that the contract would not be considered legally binding when the school does not hold a license in this state at the time the contract is signed and the enrollment fee paid."

SELF-SERVICE LAUNDRIES AND DRY-CLEANING PLANTS—
SALES TAX

April 10, 1963

Do the gross receipts from self-service laundries and dry-cleaning plants, whether or not coin operated, become subject to the sales tax because of the enactment of House Bill 559?

The opinion states: “. . . we conclude that the making available of laundromat facilities to customers, who utilize the same in laundering their clothing, constitutes a service furnished in cleaning tangible personal property. Therefore the gross receipts derived from the sale of this service are subject to the $2\frac{1}{4}$ percent sales tax imposed by section 57-39-02 of the North Dakota Century Code, as amended.”

SAMPLE BALLOT—SPECIAL ELECTION

June 19, 1963

Whether or not Sections 16-07-01 and 16-06-02 required the publication of a sample ballot prior to a special election such as is prescribed for the general election in Section 16-06-02?

The opinion states: “While the rule of law appears to be that a defect in a notice of a *general* election would not necessarily avoid the election, it is pointed out that ‘It is equally clear in the case of special elections wherein the necessity for notice is so much more urgent that the rule as to compliance with statutory requirements in the giving of notice should be much more strictly enforced.’ 18 Am. Jur. *Elections*, § 110. (1941). (Emphasis supplied.)

“ ‘Statutory provisions with reference to the giving of notice of elections are for the purpose of informing the voters of the place, time and purpose of election for a sufficient length of time to enable them to mature the issues in their minds and to determine on which side they choose to cast their ballots.’ 29 C.J.S. *Elections*, § 71 (1941).”

“. . . it is the opinion of this office that two consecutive weekly notices of the special election . . . must be published in the official county newspaper, including the copy of the sample ballot, at least eight days prior to the elections.”

SIXTY-THIRD ANNUAL MEETING

STATE BAR ASSOCIATION
OF NORTH DAKOTA

Clarence Parker Hotel
MINOT, NORTH DAKOTA

June 26, 27, 28, 1963

J. F. X. CONMY, PRESIDENT
R. J. BLOEDAU, VICE PRESIDENT
HARRY M. PIPPIN, SECRETARY-TREASURER
ALFRED C. SCHULTZ, EXECUTIVE DIRECTOR

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