



OFFICE OF THE ATTORNEY GENERAL OF TEXAS

AUSTIN

GERALD C. MANN
ATTORNEY GENERAL

Honorable George H. Sheppard
Comptroller of Public Accounts
Austin, Texas

Dear Sir:

Opinion No. C-4594
Re: Purchase by Liquor Control
Board of coveralls.

We have your letter requesting an opinion from this Department on the question whether the Texas Liquor Control Board may purchase several pairs of coveralls to be used by its employees in working in warehouses and pay for same out of the Confiscated Liquor Fund.

The purchase for which the Confiscated Liquor Fund may be expended are provided by Vernon's Penal Code, Article 566, Section 30:

"The net proceeds from all sales as provided in this Section shall be placed in a separate fund by the Board and may be used from time to time for defraying such expenses as may be necessary for the investigation of and obtaining evidence for violations of the provisions of this Act."

We assume that the employees of the Board work in liquor warehouses for the purposes of investigating and securing evidence of violations of the Act. If it be necessary, in the judgment of the Board, to provide them with coveralls to be used exclusively in this work, we think the Board may do so and pay for the coveralls out of the Confiscated Liquor Fund. Of course, the coveralls are merely to be loaned to the employees, not given to them; to give the coveralls to the employee or to permit their use by the employee for his private purposes, would effect a grant of public property not authorized by law.

The question of purchasing articles of wearing apparel deemed necessary to the accomplishment of the work

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of the Department is one primarily addressed to the discretion of the head of the particular department. Unless there is a palpable and arbitrary abuse of discretion, the decision of the department head should not be set aside. The test of the validity of such purchases is whether they are reasonably necessary to effect the State's purposes; if so, the fact that an incidental personal benefit may accrue to the employee will not make the expenditure one for private, rather than public, purposes. It is contemplated that the employees of the State should provide themselves with the ordinary and usual articles of wearing apparel; these cannot be furnished by the Departments unless expressly authorized by the Legislature as a part of the employee's compensation. But articles of wearing apparel peculiarly necessary for the accomplishment of the work of the State may, as above indicated, be purchased by the Department.

Yours very truly

ATTORNEY GENERAL OF TEXAS

By

R. W. Fairchild

R. W. Fairchild
Assistant

RWF:LM

APPROVED JUN 12, 1942

Gerald B. Mann

ATTORNEY GENERAL OF TEXAS

