

Since the members of the New Jersey Timing Association are operating their cars over a measured course and are racing against time or time previously established by another driver, there can be no question in my mind but that the association is conducting both a motor vehicle race and an exhibition of motor vehicle driving skill and, therefore, comes within the provisions of chapter 299, P. L. 1952.

Very truly yours,

THEODORE D. PARSONS,
Attorney General.

By: JOHN J. KITCHEN,
Deputy Attorney General.

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JULY 10, 1952.

HONORABLE FRED V. FERBER,
Director, Division of Purchase and Property,
Department of the Treasury,
State House,
Trenton, New Jersey.

FORMAL OPINION—1952. No. 21.

DEAR MR. FERBER:

This will acknowledge receipt of your letter of July 10, 1952, wherein you request an opinion concerning workmen's compensation insurance coverage for salaried employees and the board members of the State Board of Pharmacy. The question presented in your letter is:

"Kindly advise whether or not the Board of Pharmacy may carry workmen's compensation insurance to cover not only its salaried employees but also those board members who are paid on a per diem basis."

In my opinion, the Board of Pharmacy may carry workmen's compensation insurance for its salaried employees and for those of its board members who perform services and are paid therefor upon a per diem basis.

R. S. 34:15-43 provides: "Every employee of the State * * * or any board or commission * * * who may be injured in line of duty shall be compensated under and by virtue of the provisions of this article and article two of this chapter * * * but no person holding an elective office shall be entitled to compensation." It clearly appears to be the intention of this section to provide broad coverage for all persons except elective officials, and a special provision, R. S. 34:15-43.1, was required to eliminate from coverage casual employees for whom employment was provided under a relief plan. (By chapter 317 of the Laws of 1952, approved June 19, 1952, the restriction excluding even elective officials from workmen's compensation coverage has been eliminated.)

An employee under the Workmen's Compensation Act (R. S. 34:15-36) is defined as follows: "'employee' is synonymous with servant, and includes all natural persons who perform service for another for financial consideration, exclusive of casual employments."

The State Board of Pharmacy consists of five members, each of whom is appointed by the Governor for a term of five years. The board is required to examine into applications for registration and the granting of certificates to duly qualified persons, and other like duties. The members of the board are entitled to receive "traveling and other necessary expenses" and, in addition, each member "shall receive * * * the sum of ten dollars for each and every day upon which he is engaged upon the duties of the board." R. S. 45:14-1 et seq.

R. S. 34:15-37 provides that "In any case the weekly wage shall be found by multiplying the daily wage by five" and "Five days shall constitute a minimum week." Therefore, in the event of an accidental injury sustained by a board member, arising out of and in the course of the performance of his duties, compensation would have to be based upon the statutory rate of two-thirds of the product of \$10.00 per day times 5 days, the weekly pay rate, subject to the statutory maximum limitation of \$30.00 per week for temporary or permanent disability.

In view of the present practice under which the Board of Pharmacy and other like boards are required to be self-sustaining bodies subsisting and meeting their expenses from the dues, contributions, and fines collected by these boards, it is not only proper but it would appear highly advisable that these boards carry workmen's compensation coverage for their salaried employees and those board members who may come within the definition of the word "employee." It is readily conceivable that serious injury sustained by an employee or a board member might result in an award so high that the board might find it difficult or impossible to pay from its own funds.

Very truly yours,

THEODORE D. PARSONS,
Attorney General.

By: CHARLES I. LEVINE,
Deputy Attorney General.

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SEPTEMBER 3, 1952.

DOMINIC A. CAVICCHIA, *Director,*
Division of Alcoholic Beverage Control,
1060 Broad Street,
Newark 2, N. J.

FORMAL OPINION—1952. No. 22.

MY DEAR DIRECTOR:

Your letter of July 30, 1952, poses the question of whether the provisions of the so-called State Limitation Law, P. L. 1947, c. 94, found in R. S. 33:1-12.13, *et seq.*, prohibit the issuance of a new plenary retail consumption license in the Borough of Princeton.

The answer to this question is "Yes."

According to your advices, the borough, with a population of 12,230, has issued 11 plenary retail consumption licenses. If that were all, it would appear