

contributions and expenditures, the federal act is silent except for those persons who make contributions and expenditures over one hundred dollars and are otherwise outside of these two categories. See §§305, 306, P.L. 92-225.

Florida law, §2(4), Ch. 73-128, *supra* [§106.021(4), F. S.], provides that no contribution or expenditure in furtherance of any candidacy or on behalf of any political committee shall be directly or indirectly made or received except through the duly appointed campaign treasurer of the candidate or political committee.

On the other hand, in regard to the disclosure of federal campaign funds §302(a), P.L. 92-225, *supra*, states in part:

. . . No expenditure shall be made for or on behalf of a political committee without the authorization of its chairman or treasurer, or their designated agents.

The Federal Election Campaign Act of 1971 was not intended by Congress to invalidate or make inapplicable any provision of Florida's election laws except where compliance with Ch. 73-128, *supra*, would result in a violation of the federal act. See §403(a), P.L. 92-225, *supra*.

Copies of all campaign reports filed under the federal act are also required to be filed with the secretary of state (or equivalent state officer) of the appropriate state (§309(a), P.L. 92-225); and pursuant to §3(1) of Ch. 73-128, *supra* [§106.03(1), F. S.], committees required by the Federal Campaign Communications Act of 1971 (P.L. 92-225) to file statements of organization with federal officials may file a duplicate copy of such statements in lieu of the statement required by §3, Ch. 73-128. Thus, there appears to be mutual recognition of federal and state responsibility to protect the purity of elections.

Neither the federal nor the Florida statute prohibits the treasurer of a political committee organized under the federal act from being designated as the campaign treasurer of a federal candidate's personal campaign organization, provided such an appointed treasurer is a registered voter in this state. See §2(1)(c), Ch. 73-128, *supra* [§106.021(1)(c), F. S.].

Section 2(1)(c), *supra*, in part provides that: An individual may be appointed and serve as campaign treasurer of a candidate *and* a political committee or two (2) or more candidates and political committees.

073-418—November 13, 1973

BOARD OF BUSINESS REGULATION

NO AUTHORITY TO ADOPT PRICE-POSTING REGULATIONS FOR ALCOHOLIC BEVERAGE WHOLESALERS

To: Lew Brantley, Senator, 8th District, Jacksonville

Prepared by: Barry Scott Richard, Deputy Attorney General

QUESTION:

Does the Board of Business Regulation have the statutory authority to promulgate "price-posting" regulations affecting the wholesale liquor industry?

SUMMARY:

The Board of Business Regulation does not have the statutory authority to promulgate "price-posting" regulations affecting the wholesale liquor industry, which regulations would include a freeze on prices.

I understand that the price-posting regulations which you referred to would

work in the following manner. On or before an established date each month, wholesalers would be required to file with the Division of Beverage their front line prices on every brand and size of brand being sold by them to retailers. Copies of those prices would also be sent to all other wholesalers in the state. Within a set period of time subsequent to said filing a wholesaler would be permitted to amend his file schedule in order to meet lower competing prices filed by other wholesalers. Such amended schedules would be required to remain in effect during the entire posting period, presumably about thirty days. Prices could not be raised or lowered during this period.

Administrative agencies which are created by statute have only such powers as the statute confers upon them. *Edgerton v. International Company, Inc.*, 89 So.2d 488 (Fla. 1956); *Keating v. State*, 167 So.2d 476 (1 D.C.A. Fla., 1964). There are no provisions in Ch. 561, F. S., or any other Florida statute empowering the Division of Beverage or the Department of Business Regulation to fix prices on alcoholic beverages for thirty days or any other period of time. The only provision of Ch. 561 even related to the price of alcoholic beverages is the "Tied House Evil Law," §561.42(1), F. S., which provides:

. . . No licensed vendor shall accept, directly or indirectly, any gift or loan of money or property of any description or any rebates from any such licensed manufacturer or distributor . . .

In AGO 073-196 we held that the power of the department to enforce §561.42, F. S., did not authorize it to promulgate rules requiring that all discounts given on quantity purchases bear a reasonable relationship to the actual cost savings which accrued to a wholesaler. That holding was based upon the fact that §561.42 (6) excepted from its scope discounts in the usual course of business. The phrase "discounts in the usual course of business" is defined in §561.01(13), F. S. 1971:

. . . "discount in the usual course of business" shall mean a cash discount given simultaneously at the time of sale; provided, however, the same discounts shall be offered to all vendors buying similar quantities.

We pointed out in that opinion that §561.42 was, by virtue of the above definition, self-executing, and that no authority was given to the division or the department to set limitations in the enforcement of this section.

It appears equally clear to me that there is nothing in §561.42 or elsewhere in Ch. 561, F. S., that would authorize the department to adopt "price-posting" regulations which would include a freeze on prices.

073-419—November 14, 1973

TERMINATION OF PREGNANCIES

CONFIDENTIALITY OF RECORDS

To: *R. J. Fegers, Attorney, South Broward Hospital District, Hollywood*

Prepared by: *James M. Wallace, Assistant Attorney General*

QUESTION:

May records of pregnancy terminations maintained by a hospital district pursuant to §458.22(4), F. S., be revealed to the following persons or committees without violating the provisions of confidentiality found in §458.22(4)(b): The joint commission on accreditation of hospitals; insurance carriers which pay benefits for the abortion procedure involved; the surgical audit and tissue committees of the hospital; the medical records committee of the hospital; a special