

Licenses, Issued by Board of Railroad Commissioners. Board of Railroad Commissioners, Must Procure Blank Licenses Through the State Auditor. State Auditor, Duty of to Furnish Blank Licenses.

The state auditor is the superintendent of the fiscal concerns of the state. It is his duty to procure and have printed all state licenses; to sign and furnish same to the state treasurer, charging him therewith. Therefore, the licenses issued by the board of railroad commissioners to boats, pilots and captains of same should be procured through the state treasurer, and such licenses should bear the signature of the state auditor.

June 20th, 1913.

Hon. R. F. McLaren,
Secretary Railroad and Public Service Commission,
Helena, Montana.

Dear Sir:

I have your letter of the 18th instant, wherein you set forth that Hon. William Keating, state auditor, has requested that your board procure from his office, through the state treasurer, licenses to be issued to the captains or pilots of boats. You stated that, under your construction of the law, your department has had printed and has been issuing licenses to qualified captains or pilots without reference to the office of the state auditor, and that you have, according to the provisions of law, remitted to the state treasurer monthly the fees for inspection and licenses, furnishing the auditor with a copy of such notice of remittance. You further state that it is your understanding that the licenses referred to should not be obtained from the state auditor, but from your department, and that your procedure has been regular. Your request is for an opinion of this office as to the proper procedure in the matter of issuing permits and licenses for boats and their captains or pilots.

You are advised that the state auditor is the superintendent of the fiscal concerns of this state. Under the provisions of Subdiv. 19 of Sec. 170 of the Political Code, it is made his duty to procure and have printed all state licenses, and to sign the same and furnish the state treasurer with such licenses and charge him with the same. Under the provisions of Sec. 4 of Chap. 63 of the Session Laws of the Thirteenth Legislative Assembly, it is made the duty of the board of railroad commissioners of the State of Montana, in their discretion, if boats be seaworthy and safe for the carrying of passengers and freight, to issue to such boats a certificate or permit to engage in the business of navigating on the navigable waters of this state, and also in its discretion to issue licenses to captains or pilots of such boats if in its judgment such captain or pilots are qualified for the duties imposed upon them by law. You will observe that under the provisions of Secs. 16 and 17 (Idem.) certain inspection and license fees are to be charged and paid by the owners of boats which have been inspected, and persons to whom licenses are granted, which moneys are paid to the board of railroad commissioners for the use and benefit of the state, and it is made the duty of the board to account for and pay over to the state treasurer the moneys so collected monthly.

The matter under discussion has to do with the fiscal department of our state, and to enable the state auditor to maintain a proper system of checks and balances, I am of the opinion that licenses issued by the board of railroad commissioners, under the provisions of the law referred to, should be procured from the state auditor through the state treasurer, and that such licenses and permits should bear the signature of the honorable state auditor.

Yours very truly,

D. M. KELLY,
Attorney General.