

GARBAGE:) 1. A college which serves food in sub-
) stantial numbers on a commercial basis, in dining
 AGRICULTURE:) rooms of the college, and feeds from
) such dining rooms and kitchens to swine, are within
 ANIMALS:) the purview of H.B. No. 60, 67th General Assembly,
) and are required to cook such garbage before feeding.
) 2. A nursing home, which furnishes to elderly
) people, invalids and convalescents living quarters,
) nursing service and food on a commercial basis, and
) who feed the garbage to swine, are within the purview
) of H.B. No. 60, 67th General Assembly, and are re-
) quired to cook garbage before feeding.

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August 19, 1953

Honorable L. A. Rosner, DVM
 State Veterinarian
 Department of Agriculture
 Jefferson City, Missouri

Dear Sir:

We have your opinion request of July 17, 1953, which request reads, in part, as follows:

"I am writing to ask for an official opinion from your office as to whether or not Section 1 and Section 1-A would require compliance with House Bill 60 and the regulations promulgated thereunder of nursing and rest homes and privately endowed colleges.

"Specific reference, for example, is made to the Cedar Grove Nursing Home, Hillsboro, Missouri, and William Jewell College at Liberty, Missouri.

"The above, and others, have raised the question as to whether or not garbage and refuse from their particular institutions and fed to swine owned by them would not place them in the same category as a person who feeds to his own swine only the garbage obtained from his own household.

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The pertinent portions of House Bill No. 60, 67th General Assembly, to which you refer, read as follows:

"Section 1-A. Prior to the feeding of garbage, other than garbage obtained from his own household, to any swine

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located in the State of Missouri, the owner or feeder, as the case may be, shall first obtain an annual permit from the Department of Agriculture of Missouri, for which he shall pay an annual fee of Twenty-five dollars, which shall be deposited in the 'Agriculture Fees' fund and to be used for the enforcement of this act.

* * * * *

"Section 2. No person, other than an individual who feeds to his own swine only the garbage obtained from his own household, shall feed garbage to swine unless such garbage has been heated to a temperature of 212 degree Fahrenheit (boiling point) and fed in compliance with rules and regulations promulgated by and under permits issued by the state department of agriculture."

It is our opinion that both nursing homes and colleges are subject to the garbage-cooking law, and that neither come within the exception of individuals, owners or feeders who feed to swine only garbage obtained from their own households.

We assume that the nursing homes are institutions in which are kept elderly, invalid, and convalescent persons, who are furnished living quarters, food, and medical and/or nursing attention on a commercial basis. The garbage fed to swine comes from the kitchen of such institution.

We assume that the college to which you refer maintains a dining room or dining rooms as a service to students, on a commercial basis, and the garbage fed to swine belonging to the college comes from the kitchens and dining rooms where such food is prepared and served.

Neither situation falls within any definition of "household" which we have been able to find. Note these judicial observations on the meaning of the term (19 Words and Phrases 701, 702):

"The term 'household' means those who dwell under the same roof and constitute

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a family; a number of persons dwelling under the same roof and composing a family; and by extension, all who are under one domestic head; persons who dwell together as a family; the place where one holds house, his home. Vaughn v. American Alliance Ins. Co. of New York, 27 P. 2d 212, 138 Kan. 731.

* * * * *

"* * * Webster gives the primary meaning as 'persons collectively who live together in a house or under one head or manager; a household including parents, children, and servants, and it may be lodgers or boarders;' but the cases do not generally sustain the inclusion of the latter. To constitute the family relation between persons living together it must be permanent and domestic in character, and not temporary. It embraces a household composed of parents, children, or domestics; in short, every collective body of persons living together within one curtilage subsisting in common and directing their attention to a common object. Robbins v. Bangor Ry. & Electric Co., 62 A. 136, 141, 100 Me. 496, 1 L.R.A., N.S., 963.

"* * * As ordinarily understood, a 'household' consists of the members of the family composing it, or those sustaining some relationship of blood, or of ties which naturally or necessarily link them to such household; and while household and family are substantially synonymous, 'family' is constituted where one or more persons living together in same house are being supported by one in whole or in part and are dependent on him therefor, and he is under natural or moral obligation to render such support. Umbarger v. State Farm Mut. Automobile Ins. Co., 254 N.W. 87, 218 Iowa 203."

The Legislature, in the use of the word "household," evidently intended to include only smaller groups who are served food on a noncommercial basis, and on what will ordinarily be a smaller scale, such as families living under one roof.

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Furthermore, in arriving at the legislative intent we may consider the evil sought to be remedied, and the means employed by the Legislature to accomplish that end. The statute, when possible, should be construed to accomplish the end sought by the Legislature.

"* * * The construction of the statute should be made with reference to the purpose of the statute, or in the light thereof, and in harmony and conformity therewith, in order to aid, advance, promote, subserve, support, and effectuate such aim, design, motive, end, aspirations, or object." (Section 303, 50 Am. Jur. 286, 287.)

* * * * *

"In the construction of an ambiguous statute, it is proper to take into consideration the particular evils at which the legislation is aimed, or the mischief sought to be avoided,-- that it, to the occasion and necessity for the law, or causes which induced its enactment, as well as the remedy intended to be afforded and the result sought to be attained, or the benefits expected to be derived, where these matters can be legitimately ascertained. Where possible, the statute should be given such a construction as, when practically applied, will tend to suppress the evil which the legislature intended to prohibit. Under these rules, a case which is within the mischief of a statute has been regarded as within its provisions, and the tendency has been to so interpret the statute as to embrace all situations in which the mischief sought to be remedied is found to exist. * * * " (Section 305, 50 Am. Jur. 291-293.)

What is the purpose of this act? Plainly, to eliminate the disease of vesicular exanthema. Section 7 of the Act reads thus:

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"Section 7. The feeding of raw garbage to swine has resulted in an epidemic of vesicular exanthema, a serious disease of hogs, which prevents the sale of such hogs in interstate commerce, and thereby causes severe losses to the people of this state and endangers the public health. This act, therefore, is necessary for the immediate preservation of the public peace, health and safety and an emergency exists within the meaning of the constitution. This act shall, therefore, be in full force and effect from and after July 1, 1953."

The object sought to be attained thus is subserved by this interpretation of the statute. In this connection we quote the fourth paragraph of your letter.

"From the standpoint of what is fundamental in the control of Vesicular Exanthema through feeding of garbage, these institutions are not in the same class as the farmer or swine raiser who feeds only the garbage from his own household and produces his entire pork needs. In other words, the farmer or pork raiser thus exempted is less likely to buy pork or pork products from outside sources as would more likely be the case in nursing homes, colleges and so forth. It would thus seem to me that from the standpoint of what is effective in the control of Vesicular Exanthema through feeding of garbage, that garbage from these latter institutions presents a much greater hazard when fed to swine."

CONCLUSION

It is the opinion of this office:

1. That a college which serves food to students in substantial numbers on a commercial basis, in dining rooms of the college, and feeds the garbage from such dining rooms and kitchens to swine, are within the purview of House Bill No. 60, 67th General Assembly, and are required to cook such

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garbage before feeding.

2. That a nursing home, which furnishes to elderly people, invalids and convalescents living quarters, nursing service and food on a commercial basis and who feed the garbage to swine are within the purview of House Bill No. 60, 67th General Assembly, and are required to cook garbage before feeding.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, Mr. W. Don Kennedy.

Yours very truly,

JOHN M. DALTON
Attorney General

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