

LABOR DEPARTMENT:

Commissioner has no present authority  
to draft and promulgate Boiler rules.

#B 206 June 13

August 26, 1933.

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Miss Mary Edna Cruzen,  
Commissioner of Labor,  
Jefferson City, Missouri.

Dear Miss Cruzen:

We are acknowledging receipt of your letter in which  
you inquire as follows:

"Has the Commissioner of Labor authority to draft  
and promulgate boiler rules for the State of Missouri?"

Has the Commissioner of Labor authority to enforce  
penalties for violation of whatever code may be adopted  
and approved?

Do the Statutes provide for penalties?

The following Statutes have been called to my attention:

A Board of Boiler Rules was created by the Legislature  
in 1919. Mo. R. S. 1919, Ch. 54, Art X.

The Act of 1927 created a Department of Labor and Indus-  
trial Inspection and gave to the Commissioner the power  
and duty of administering all the provisions of Ch.  
54 R. S. 1919, except those of Art. III. The Board  
of boiler rules is named in the title of the Act.

Three of the five sections of Ch. 54 R. S. 1918 were  
carried over into the 1929 revision, Mo. R. S. 1929,  
Ch. 95, Art. II.

Art. 2 of Ch. 95, R. S. 1929, was repealed in 1933,  
Session Laws, 1933, page 287." 282

In answering your inquiry we shall review the Sections  
called to our attention. The Legislature in the Laws of  
1919, page 83, created the Missouri Board of Boiler Rules,  
and gave to the Board the power to formulate rules and  
enforce their regulations by the imposition of certain  
penalties. This Act was incorporated in the 1919 revision  
and appears at Article 10 of Chapter 54, R. S. Mo. 1919.  
The Legislature in the Laws of 1927, pages 292 to 296, Section  
14, repealed Section 6851 of Article 10, R. S. Mo. 1919.

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This was the Section which created the Missouri Board of Boiler Rules. That left Sections 6852, 6853, 6854 and 6855 unaffected. Those sections, with the exception of Section 6854, appear as Sections 13296, 13297 and 13299 of Article 11, Chapter 95, R. S. Mo. 1929. Section 6854 R. S. Mo. 1919 was an appropriation Section and should have been Section 13298 R. S. Mo. 1929, but was inadvertently omitted from the revision. This Section, however, was repealed by the Laws of 1931, page 259.

The remaining three Sections of Article 11, Chapter 95, R. S. Mo. 1929, were repealed by the Legislature in Laws of 1933, page 282. The repeal of these last three Sections completed the repeal of what was originally Article 10 of Chapter 54, R. S. Mo. 1919, and took away from the Labor Department the right to formulate and promulgate Boiler Rules for the State of Missouri.

It is, therefore, the opinion of this Department that under the present condition of our Laws, the Commissioner of Labor does not have authority to draft and promulgate Boiler Rules for the State of Missouri. Having answered your first inquiry in the negative, your second and third inquiries must also be answered in the negative.

Very truly yours,

  
Assistant Attorney General.

APPROVED:

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Attorney General.

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