

LABOR DEPARTMENT:

In arriving at fee for inspection, only persons employed within building may be counted, and not those employed by same employer in the yards.

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Dec 13 19 23 Mo 1929  
October 7, 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 Labor and Industrial Inspection Department a right to collect inspection fees covering the number of employes working inside and outside of a railroad building - i.e.

The St. Louis-San Francisco Railway Company claim that inasmuch as they only had five employes working within the building that they did not have to pay an inspection fee covering the 54 other employes working in the yards whose duty did not require them to occupy any of the buildings or shops inspected - they claim

That according to Law the inspection fee should be based on the men employed or found at work in the buildings or shop inspected. May I have your opinion on this subject?"

Section 13219, R. S. Mo. 1929, provides as follows:

"The commissioner provided for in this article shall be entitled to demand and receive from the owner, superintendent, manager or other person in charge of every establishment inspected, as provided by law, the following fee for each inspection made in accordance with the provisions of articles 4, 5, 6, 8, 9 and 10, chapter 95, R. S. 1929, or elsewhere authorized or required of said inspector by law to be made: For the inspection of every building or shop in which three or less persons are employed or found at work, the sum of fifty cents; for the inspection of every building or shop in which more than three and not exceeding thirteen persons are employed, the sum of one dollar \* \* \* \*."

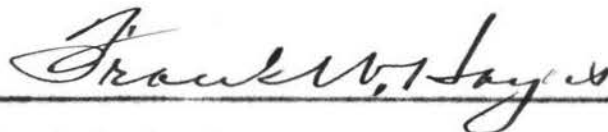
You state that there are five people working in the building owned by the St. Louis-San Francisco Railway Company. You also state there are fifty-four people working in the yards of this Railroad who are not in any way employed in the building

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and whose duties do not require them to be in the building. Under Section 13219, R. S. Mo. 1929, we understand that the fees are regulated by the number of persons employed or found at work in the building inspected. We do not understand this to mean that you may include, for the purpose of arriving at the fee to be charged, persons employed by the same Company who are working upon the right-of-way or in the yards of the Railway Company. The fact that the Railroad Company may have employed in its yards and along its tracks a group of men, is not to be considered in arriving at the fee to be charged for the inspection of a building owned or used by the Company. If employes of the Railroad Company who do not work in the building and whose duties do not require them to be in the building can be included in arriving at the fee to be charged, then the question immediately arises as to what employes are included and what are not. The Railroad Companies do have men employed in their yards all along their tracks. If those working in the yards in the immediate vicinity of the building can be included, then it becomes a problem as to just what distance from the building the trackmen must work before they may be included in the enumeration. Shall those employed within 100 yards be included and those not employed within 100 yards be excluded? We do not believe that the Legislature intended that the fees be fixed upon such a basis.

It is therefore our opinion that under Section 13219, R. S. Mo. 1929, that the fees for the inspection of every building and shop are regulated according to the persons employed or found at work within the building or shop inspected. The purpose of the Inspection Law is for the regulation of buildings wherein people work. There can be no connection between the condition or inspection of a building and employes whose duties do not require them to enter such building, and who are not employed therein. We believe, therefore, that when there are only five people employed within the building your fee must be based upon that basis.

Very truly yours,



Assistant Attorney General.

APPROVED:

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Attorney General.

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