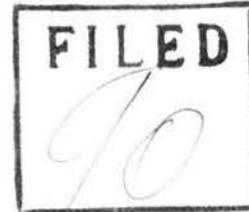


LEGISLATURE: Power to designate Supervisor of Food & Drugs
administrative head of Liquor Control Acts.

November 3, 1933



Hon. John D. Taylor
House of Representatives
Jefferson City, Missouri

Dear Mr. Taylor:

I acknowledge receipt of your request for an opinion
of this office. Your request reading as follows:

"I wish you would furnish me not later
than Monday morning by ten o'clock an
opinion on the following question:

Certain liquor control bills are pending
in both the House and the Senate, some
of these bills provide for the appoint-
ment of a special commission, others
provide that the power to enforce shall
be lodged in the office of Food and Drug
Supervisor, a subdivision of the Depart-
ment of Public Health.

The question has been raised whether or
not the head of a subdivision could be
legally designated as the proper person
to enforce the law." * * **

I.

SUPERVISOR OF FOODS AND DRUGS NOT A
STATUTORY OFFICE.

By the terms of Senate Bill 16, found on page 255,
Missouri Laws 1933, the office of Commissioner of Foods and
Drugs was abolished. This act reads as follows:

"The office of food and drug commissioner
is hereby abolished, and all the rights,

duties and powers heretofore vested by law in said food and drug commissioner are hereby transferred to and vested in the commissioner of health. Where any law refers in any way to or imposes any right, duty or power upon the food and drug commissioner or his assistants, such law shall be construed as referring to and imposing such rights, duties and powers upon the Commissioner of Health or his assistants. The words "Commissioner" and "food and drug commissioner," as used in this Chapter, shall be construed to mean the Commissioner of Health, and the words "department" and "food and drug department" as used in this Chapter, shall be construed to mean the State Department of Health."

As a matter of necessity and to promote efficient administration, it is my understanding that an assistant has been appointed by the Commissioner of Health who has been designated as the supervisor of Food and Drugs. An examination of the laws on this subject reveal that this office is not a statutory office but is simply a convenient designation, for the Assistant to the Commissioner of Health, having direct charge and supervision of the administration of the Food and Drug Laws. There being no statutory office designated as the supervisor of Food and Drugs, it would be our first suggestion that such an office be created, which office to be consistent with the purpose of the foregoing law of the regular session, should be under the jurisdiction of the Department of Health.

II.

SUPERVISOR OF FOOD AND DRUGS MAY BE CLOTHED WITH ADMINISTRATIVE DUTIES OF LIQUOR CONTROL LAW.

After having constituted the supervisor of Food and Drugs a statutory officer, it is our opinion that he may be designated the head or administrative agent for the liquor control law. It is to be kept in mind that the legislature has full power to enact all laws not contrary to or inconsistent with the Constitution of the State. The Commissioner of Health is not clothed with any Constitutional powers in respect to Food and Drugs or intoxicating or non-intoxicating liquors, and accordingly the legislature is free to enact any measure as it may deem necessary to the efficient administration of these laws. As a precedent for this legislative

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action we refer you to the Motor Vehicle License Act as found in Article 1 of Chapter 41, R. S. Mo. 1921. This Act provides for the appointment of "Commissioner of Motor Vehicles" by the Secretary of State. The act then directly confers powers and duties upon such commissioner. As another example we refer to Chapter 92, R. S. Mo. 1929, wherein the Athletic Director of the University of Missouri is made also chairman of the Athletic Commission, and statutory powers and duties are likewise conferred upon him.

It is therefore the opinion of this office that there is nothing inconsistent or beyond the power of the Legislature in the designation of the Supervisor of Food and Drugs as the administrative head of the liquor control acts.

Respectfully submitted,

HARRY G. WALTNER, JR.
Assistant Attorney General.

APPROVED:

Attorney General.

HGW:MM