

LICENSES FOR CREAM STATIONS: ARE MILK AND CREAM GATHERING ROUTES ENTITLED TO BE LICENSED AS MILK STATIONS?

7-16
July 9, 1934.



Hon. J. C. Breshears,
Commissioner,
Department of Agriculture,
State of Missouri,
Jefferson City, Missouri.

Dear Sir:

Receipt of your letter of June 26 is hereby acknowledged. Therein you request an opinion based on the following communication:

"The present plan of issuing licenses under Section 12396, 12397, 12398 and 12399, R. S. Mo. (said Sections being a part of Missouri Dairy Laws) is to issue to cream station operators a license to operate a milk or cream testing apparatus.

This practice was begun at a time when the cream was taken to the several cream stations by the producer and the one license was sufficient. However, conditions have changed materially in recent years and now there are hundreds of milk and cream gathering routes operating throughout the State, taking much of the business from the licensed cream stations.

Naturally those who operate cream stations and pay their license fee are making serious complaint against such routes operating without paying a license.

We kindly ask your opinion as to whether this Department can legally require from those operating routes an application and a license fee the same as is required from those operating cream stations.

Some cream station operators have license to operate cream station and also operate several trucks gathering cream. Could we require a license for each truck they operate in addition to the license they have for their station?

We further ask your opinion as to whether one license could be worded so as to cover both the cream station operator and the truck operator."

I.

"The state dairy commissioner shall inspect and license milk or cream gathering, buying and receiving stations within this state, and it shall be unlawful for any person, firm, association or corporation engaged in the business of buying milk within the state for the purpose of shipping same to any city, town or village in this state for consumption or to be used for the manufacture of butter, cheese, condensed milk, or other human food, unless such business shall be transacted at a legally licensed office or station within the state, as in this article provided. (R. S. 1919, 11975)." R. S. No. 1929, Sec. 12306.

This section provides for the licensing of all milk or cream gathering, buying and receiving stations. It does not provide for the licensing of any truck lines engaged in the gathering of cream. But the section does expressly state that it shall be unlawful, i.e., a misdemeanor, for anyone engaged in the business of buying milk for the purposes mentioned, unless such business be transacted at a licensed cream station. Thus, if the trucks in question are not operating in connection with a licensed cream station, their use is unlawful.

" * * * * * The term 'station' or 'milk gathering station' or 'milk buying station' as used in this article, shall be held to include any established office or place where the business of buying milk or cream is carried on, whether with or without a place or premises in connection therewith for the physical handling of milk. * * * * * " R. S. No. 1929, Sec. 12307.

The definition quoted from the above section clearly contemplates that a cream station shall consist of an established office, a definite location. Anything coming within this definition is a cream station within the meaning of the statute, and must be licensed. Anything falling without the terms of this definition, such as a truck line, unconnected with any parent office for buying cream, is not a cream station, has no right to be licensed, and is unlawful, as provided by Section 12306 (supra).

" * * * * * A license issued under the provisions of this section shall also authorize the licensee to buy milk, cream and other dairy products mentioned in section 12307 of this article without additional license therefor, but no person shall operate more than one station under the same license. (R. S. 1919 Sec. 11977)" R. S. No. 1929, Sec. 12308.

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The last clause of this section indicates that the license provided for therein is to be coextensive in scope and application with the license provided for in Section 12596, supra. In other words, such license when granted to any but operators of cream stations, does not have the effect of authorizing the licensee to buy milk, cream, etc.

II.

Conclusions: (1) Cream gathering routes, which do not operate in connection with a cream station, are unlawful, their use constituting a misdemeanor. (2) Trucks which are operated by owners of cream stations may lawfully be used to gather milk and cream, and do not need to be separately licensed, so long as all the milk and cream gathered thereby is handled through the central cream station. (3) An ordinarily worded license will cover both the cream station operator and the truck operator when the latter is an integral part, functionally, an adjunct of the former. Attempted independent operation of the trucks, however, is unlawful.

Respectfully submitted,

FRANKLIN E. REAGAN,

Assistant Attorney-General.

APPROVED:

ROY McKEPTRICK,

Attorney-General.