

LABOR AND INDUSTRIAL INSPECTION DEPARTMENT - Right to collect license fee imposed solely upon shipping bedding into Missouri.

3-2

February 26, 1934.



Miss Mary Edna Cruzen, Commissioner,  
Labor and Industrial Inspection Department,  
Jefferson City, Missouri.

My dear Miss Cruzen:

A request for an opinion has been received from you under date of February 12, 1934, such request being in the following terms:

"Has the Labor and Industrial Inspection Department the right to collect a license for shipping bedding into Missouri?"

This Department has received a check for \$20.00 from the Superior Felt & Bedding Co. of Chicago, covering a license, which I am holding up awaiting your opinion.

I will appreciate it very much if you will give me your opinion on this matter as soon as possible in order that I may either issue a license to this company or return their check."

The State of Missouri is prohibited by the Constitution of the United States from taxing or imposing a license upon the privilege of doing a business which is exclusively interstate commerce. In the case of *Dahke-Walker Milling Co. v. Bondurant*, 257 U. S. 282 (1921) the Supreme Court of the United States said:

"The commerce clause of the Constitution, art. 1, sec. 8, cl. 3, expressly commits to Congress and impliedly withholds from the several states the power to regulate commerce among the latter. \* \* \* \* \* A corporation of one state may go into another, without obtaining the leave or license of the latter, for all the legitimate purposes of such commerce; and any statute of the latter state which obstructs or lays a burden on the exercise of this privilege is void under the commerce clause. *Crutcher v. Kentucky*, 141 U. S. 47, 57, 35 L. ed. 649, 652, 11 Sup. Ct. Rep. 351; *Eastern U. Teleg. Co. v. Kansas*, 216 U. S. 1, 27, 54 L. ed. 355, 366, 30 Sup. Ct. Rep. 190; *International Textbook Co. v. Pigg*, 217 U. S. 91, 112, 54 L. ed. 678, 687, 27 L. R. A. (N. S.) 493, 30 Sup. Ct. Rep. 431, 16 Ann. Cas. 1103; *Sioux Remedy Co. v. Cope*, 235 U. S. 197, 59 L. ed. 193, 35 Sup. Ct. Rep. 57." (257 U. S. 290, 291)

It is, therefore, our opinion that the Labor and Industrial Inspection

2. Miss Mary Edna Crusen

February 26, 1934.

Department has no right to collect a license from any person or entity imposed solely upon the right of doing a business of shipping bedding into Missouri.

Very truly yours,

EHM-13

ASSISTANT ATTORNEY GENERAL.  
EDWARD H. MILLER

Approved:

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ATTORNEY GENERAL.