

LABOR DEPARTMENT:--Under National Bedding Code certain State regulations are still effective and may be enforced by the Commissioner.

3-22

March 20, 1934.



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

Dear Mrs. Cruzen:

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

"Has the Labor and Industrial Department the right to enforce the provisions of the bedding code?"

You will find herewith a copy of the code."

With your inquiry you enclosed a copy of the Code of Fair Competition for the Bedding Manufacturing Industry and inquire whether your Department has a right to enforce the provisions of this Federal Code. The Code itself, which we will not copy because of its length, provides its own machinery for enforcement of its provisions. Naturally the enforcement of Federal laws and regulations is incumbent upon Federal officials and not upon State officials.

Section 5 of Article V of the Code provides as follows:

"Within each State this Code shall not supersede any laws of such State imposing more stringent requirements on employer, regulating the age of employees, wages, hours of work, or health, fire or general working conditions than under this Code."

Paragraph (g) of Section 4 of Article VII of the Code provides as follows:

"Wherein a provision of the foregoing Sections 1 to 4, inclusive, is irreconcilably in conflict with a State statute, such statute shall supersede within such State. It is the intent herein to preserve and supplement state bedding laws."

Under Section 5 above quoted, your Department may

still enforce the State laws regulating the age of employees, wages, hours of work, etc., where such laws impose more stringent requirements on the employers than the requirements specified in the Code. However, when you do that you are enforcing the laws of this State by permission of the Federal Government and are not enforcing the provisions of the Code.

Article 12 of Chapter 95, R. S. No. 1929, is a chapter dealing with mattresses and it is the duty of your Department to enforce the regulations and requirements of that chapter. Under paragraph (g) of Section 4 of Article VII of the Code, it is provided that where the State statutes are irreconcilably in conflict with Sections 1 to 4 of Article VII of the Code, then such State statutes shall supersede the provisions of the Code. In such a case you are again enforcing the provisions of the State statutes by permission of the Federal Government, as contained in the Code. In both of the instances referred to, the effect is that the Federal Government has adopted the provisions of the State law in some respects, and in that event the enforcement thereof is dependent upon the Labor Commissioner.

It is therefore the opinion of this Department that where the State laws regulating the age of employees, wages, hours of work, etc., are more stringent than the requirements of the Code, you may enforce the State statutory provisions and where the State statutes are irreconcilably in conflict with Sections 1 to 4 of Article VII of the Code, then the State statutes supersede the provisions of the Code and may be enforced by you. In either event you are not enforcing the provisions of the Federal Code, which carries its own enforcement provisions, but by permission you are enforcing the provisions of the State law.

We are retaining a copy of the Code for our files and if you desire same you may request it.

Very truly yours,

FRANK W. HAYES,
Assistant Attorney General.

APPROVED:

Attorney General.

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