

DRUGS: A person may not use the word "drugs" in his business or advertisement unless he be a licensed pharmacist.

December 22, 1936.



Hon. A. H. Juergensmeyer,
Prosecuting Attorney,
Warrenton, Missouri.

Dear Sir:

This department is in receipt of your request for an opinion under date of December 17th, wherein you state as follows:

II.

"A owns and operates a news stand and confectionary and has put in a supply of patent medicines. Is he allowed to use in his advertisement and on his letterheads the word 'drugs?'"

Section 13140, R. S. Mo. 1929, provides in part as follows:

"It shall be unlawful for any person not licensed as a pharmacist within the meaning of this chapter to conduct or manage any pharmacy, drug or chemical store, apothecary shop or other place of business for the retailing, compounding or dispensing of any drugs, medicines, chemicals or poisons, or for the compounding of physicians' prescriptions, or to keep exposed for sale, at retail, any drugs, medicines, chemicals or poisons, except as herein-after provided, * * * *: Provided, however, that nothing in this section shall be so construed as to apply to the sale of patent and proprietary medicines, * * * *."

Under the above section, a person can not conduct a "drug" store or keep "drugs" exposed for sale unless he be a licensed pharmacist. Patent medicines, however, are an exception and may be sold at other than drug stores.

Section 13154, R. S. Mo. 1929, provides as follows:

"It shall be unlawful for any person not legally licensed as a pharmacist to take, use or exhibit the title of pharmacist, or licensed or registered pharmacist, or the title druggist or apothecary, or any other title or description of like import; and it shall be unlawful for any person not legally licensed as an assistant pharmacist to take, use or exhibit the title of assistant pharmacist or any other title or description of like import."

To use or display the word "drugs" would be tantamount to the use or display of the word "druggist" for both would indicate that A was a dealer in drugs.

In the case of State v. Chipp, 121 Mo. App. 556, l. c. 559, the court said:

" * * * defendant contends that a dealer in drugs and a druggist mean the same thing--that the terms are synonymous. For the purpose of the case, we will assume that defendant's contention is correct, of which we have no doubt."

We are of the opinion that, although A may sell patent medicines without being a licensed pharmacist, by placing the word "drugs" in his advertisement and on his letterheads he intends to convey to the public that he is a druggist, and thus violates Section 13154, supra.

Yours very truly,

WM. ORR SAWYERS,
Assistant Attorney General.

APPROVED:

J. E. TAYLOR,
(Acting) Attorney General.

MW:HR