

LABOR - Commissioner of Labor and Industrial
Inspection without authority to make inspection
of schools conducting manual training courses
by the use of machinery.

January 25, 1938.

Mrs. Mary Edna Cruzen, Commissioner
Labor & Industrial Inspection Dept.
Jefferson City, Missouri



Dear Mrs. Cruzen:

This is to acknowledge your letter of recent date requesting an opinion from this department on the following state of facts:

"Under Section 13218, R. S. of Missouri, 1929, this Department is authorized to make inspections of mechanical establishments and workshops. In several cities in Missouri there are now being conducted manual training schools, financed by the capital of private individuals, which might be classified as workshops and inasmuch as students use various types of machinery, grinders and welding equipment, use of which in industrial workshops and mechanical establishments is considered hazardous unless properly guarded and the operators of such machines equipped with goggles and other necessary safety devices.

"In the schools referred to, the students operating this machinery are not in any sense considered as employees, but are paying for the training they are receiving.

"Has this Department any right to make inspections of such establishments and to insist upon the proper guarding of such machinery and the elimination of such hazards as may be determined?"

The pertinent part of Section 13218 of R. S. Mo. 1929 about which you inquire reads as follows:

" ** It shall be the duty of the commissioner, his assistants or deputy inspectors, to make not less than two inspections during each year of all factories, warehouses, office buildings, freight depots, machine shops, garages, laundries, tenement workshops, bake shops, restaurants, bowling alleys, pool halls, theaters, concert halls, moving picture houses, or places of public amusement, and all other manufacturing, mechanical and mercantile establishments and workshops. ** "

If an inspection may be made of the schools which conduct manual training courses, then the authority therefor must exist and be embraced within the terms as set forth in the above quoted part of the statute. An examination of Section 13219 of R. S. Mo. 1929 indicates that an inspection of the places or establishments as set forth above shall be made in accordance with the provisions of Articles 4, 5, 6, 8, 9 and 10 of Chapter 95 of R. S. Mo. 1929. This section further provides the fee to be charged for making the inspection, which fee is based upon the number of persons employed or found at work.

We have examined Chapter 95, supra, and do find that such statutes have been enacted by the Legislature in view of the protection of the health and safety of employees pursuing various occupations which are hazardous in their nature. These enactments are proper police regulations and have heretofore met with the approval of the Supreme Court in the case of State v. Vickers, 186 Mo. 103, 106, wherein the court passed upon objections that had been directed against what is now Section 13219, supra, and said:

"The answer to each and all of them is that this is a police regulation for the protection of the lives, health and morals of the employees in factories, and is clearly within the power of the Legislature to enact."

Since these inspections are required to be made of certain places, as above set forth, in the furtherance of the health and the protection of the lives of persons employed in certain establishments, these statutes should receive a liberal interpretation in light of the object and purpose for which said statutes were enacted. In so doing we may properly extend words used in a statute to effectuate its purpose. *Straughan v. Myers*, 187 S. W. 1159; *Kerens v. St. Louis Union Trust Company*, 223 S. W. 645.

With these principles of law in mind, we have examined in detail all of Articles 4, 5, 6, 8, 9 and 10 of Chapter 95, supra, and fail to find any statute which by the plain wording thereof or by any necessary implication may be construed so as to include schools which are conducting manual training courses.

It is plain from the reading of these articles relating to an inspection of certain places, that such inspections are to be made in the interests of the welfare of those who might be employed in those places. As was said by the court in *State v. Vickers*, supra, in disposing of objections lodged against a section of the statute contained in one of these articles aforementioned that these are police regulations for the "protection of the lives and health and morals of the employees in factories." The Legislature, so as not to be misunderstood by the use of the term "factory" and "workshop," has defined the same in Section 13287, under Article 9, as follows:

" ** The expression 'woman' means a woman of the age of eighteen years and upward. The expression 'factory' means any premises where steam, water or other mechanical power is used in

January 25, 1938

aid of any manufacturing process there carried on. The expression 'workshop' means any premises, room or place, not being a factory as above defined, wherein any manual labor is exercised by way of trade, or for purposes of gain, in or incidental to any process of making, altering, repairing, ornamenting, finishing or adapting for sale any article or part of an article, and to which or over which premises, room or place the employer of the persons working therein has the right of access or control: ** "

From the above section, you will have noticed from the plain wording of the statute that a manual training school using various types of machinery could not be included within the meaning of a workshop or factory as these two terms are defined. Hence, the Commissioner of Labor and Industrial Inspection would have no authority to make an inspection of such a school.

CONCLUSION.

In view of the above, it is the opinion of this department that the State Commissioner of Labor and Industrial Inspection is without authority to make inspections of schools which conduct manual training courses by the use of various types of machinery or other equipment, because no authority therefor exists within the meaning of Section 13218, R. S. Mo. 1929.

Yours very truly,

RUSSELL C. STONE
Assistant Attorney General

APPROVED:

J. E. TAYLOR
(Acting) Attorney General

RCS:FE