

LABOR: Sale of products produced by persons under 18 years of age when employed by parent or guardian, are exempt from the provisions of the Laws of Missouri, 1937, page 196.

March 15, 1938.

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Mary Edna Cruzen  
Commissioner of Labor  
Jefferson City, Missouri

Dear Madam:

This is to acknowledge receipt of your request for an opinion, which reads as follows:

"I am receiving any number of complaints and considerable controversy is arising with reference to the question of child labor, especially in the tiff mining section of Missouri where children are employed by their parent or guardian. A greater part of this controversy has arisen over Senate Bill No. 1 of the 59th General Assembly, a copy of which is attached hereto.

"It is my understanding that my Department has no jurisdiction in this matter and that the employment of persons under fifteen years of age by their parent or guardian in this industry is exempt from the provisions of this act.

"I would greatly appreciate an opinion from you in this matter in order that I may give complainants the proper information."

The Act, about which you inquire, Laws of Missouri, 1937, at page 196, was directed toward prohibiting the sale of any goods, wares or merchandise manufactured, produced, mined or quarried, wholly or in part, by child labor, either within the state or without the state. The Act exempted the sale of goods

sold in the course of Interstate Commerce and to agricultural or farm products.

The term "child labor" is defined in Section 2, sub-section "b", in part, as follows:

"Employment of persons under eighteen (18) years of age in any manner or by any means whatsoever in, or in connection with, the mining or quarrying of minerals; provided however, that the provisions of this sub-section shall not apply to employment of persons under eighteen (18) years of age by their parents, or guardian."

It will be noticed that the above section clearly prohibits the employment of persons under eighteen (18) years of age in any mine or quarry, in connection with any mine or quarry. This inhibition is limited in its application when construed with its proviso which immediately follows. Therefore, the proviso, limiting or restraining the preceding clause to which it is attached, has for its effect of permitting the employment of persons under the age of eighteen (18) by their parents or guardian. State ex rel. Crow vs. City of St. Louis, 174 Mo. 125; Brown vs. Patterson, 124 S. W. 1.

From these considerations it will be noticed that the sale of products from any mine or quarry, that have been produced by persons under the age of eighteen (18) years, when employed by their parents or guardians, are excepted from the provisions of the Act.

#### CONCLUSION

In view of the above, it is the opinion of this department that the sale of products from mines or quarries

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which have been produced by persons under eighteen (18) years of age, when employed by parent or guardian, are excepted from the provisions of the Act.

Yours very truly,

RUSSELL C. STONE  
Assistant Attorney General

APPROVED:

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J. E. TAYLOR  
(Acting) Attorney General

RCS:LB