

**INSURANCE:  
MAKING AND CAUSING TO BE PUBLISHED  
UNTRUE STATEMENTS:**

The statement that the "State of Missouri guarantees insurance" is untrue and persons making and causing to be published such statements violates the provisions of Section 4308, R.S. Mo. 1929, and is liable for the penalties imposed therein.

April 18, 1938

Mr. Elvin S. Douglas,  
Prosecuting Attorney,  
Polk County,  
Bolivar, Missouri.



Dear Sir:

This is to acknowledge yours of April 13, 1938, for an official opinion from this office based on the following letter and advertisement:

"I herewith hand you a copy of an advertisement by H. S. Rainwater of this city, which appeared in the Bolivar Free Press in the upper left hand corner of page eight of its issue of April 7th, 1938.

I am also at this time inviting the attention of the Insurance Department to the same advertisement, and invite the attention of both of you to the part which I have underlined.

I would appreciate your opinion on just what penal section he has violated, if any."

"I SELL THE FOLLOWING KINDS OF LIFE INSURANCE:

**MORTGAGE:** To clear your farm or home if you die.

**TEACHERS' RETIREMENT:** To assure teachers a regular monthly income for

life.

EDUCATION: To provide a fund to send children to college.

ENDOWMENT: A savings account plus death benefit. If you start a savings account it will be matured whether you live or die.

OLD AGE INCOME: To provide a monthly check for life, beginning at the age of 60, 65, or 70.

I have 62 different kinds. All insurance I sell is guaranteed by the State of Missouri. I am licensed by the state.

H.S. Rainwater  
Insurance Salesman."

By Section 4308, R.S. Mo. 1929, it is provided as follows:

"Any person, firm, corporation, or association who, with intent to sell or in anywise dispose of merchandise, securities, service, or anything offered by such person, firm, corporation or association, directly or indirectly, to the public for sale or distribution, or with intent to increase the consumption thereof, or to induce the public in any manner to enter into any obligation relating thereto, or to acquire the title thereto, or an interest therein, makes, publishes, disseminates, circulates, or places before the public, or causes, directly or indirectly, to be made, published, disseminated, circulated, or placed before the public, in this state, in a newspaper or other publication, or in the form of a book, notice, handbill, poster, bill, circular, pamphlet, or letter, or in any

other way, an advertisement of any sort regarding merchandise, securities, service, or anything so offered to public, which advertisement contains any assertion, representation or statement of fact which is untrue, deceptive or misleading, shall be guilty of a misdemeanor, and shall upon conviction thereof be punished by a fine of not less than twenty-five dollars nor more than five hundred dollars, or by imprisonment in the county jail not less than ten days nor more than ninety days, or by both such fine and imprisonment; providing that nothing herein shall apply to any proprietor or publisher of any newspaper or magazine who publishes, disseminates or circulates any such advertisement without the knowledge of the unlawful or untruthful nature of such advertisement."

By this section any person \* \* \* who with intent to sell or in anywise dispose of \* \* \* anything offered by such person \* \* \* to the public for sale or distribution \* \* \* makes, publishes \* \* \* or causes to be made or published or placed before the public in a newspaper in this state, an advertisement of any sort regarding anything so offered to the public, which advertisement contains an untrue statement of fact, is guilty of a misdemeanor and subject to the penalty therein imposed.

The advertisement accompanying your letter represents to the public that the insurance which the agent sells is guaranteed by the State of Missouri.

In our research on this question, we do not find that the State of Missouri under any circumstances ever guarantees any insurance contracts. Therefore, that part of the advertisement which states "All insurance I sell is guaranteed by the State of Missouri" is untrue.

Mr. Elvin S. Douglas

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April 18, 1938

CONCLUSION

It is, therefore, the opinion of this department that an advertisement which contains a statement that the State of Missouri guarantees insurance is untrue, and that the person who makes and causes to be published such advertisement, has violated the provisions of said Section 4308, R.S. Mo. 1929 and is subject to the penalties imposed therein.

Respectfully submitted,

TYRE W. BURTON  
Assistant Attorney General

APPROVED:

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J. E. TAYLOR  
(Acting) Attorney General

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