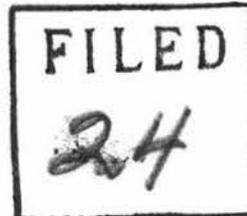


PLUMBERS: A person may be prosecuted for violation of a state law regulating plumbing even though he has obtained a permit to perform specific plumbing work under provisions of a city ordinance, if he violates such state law.

May 29, 1951

6/2/51

Honorable John E. Downs  
Prosecuting Attorney  
Buchanan County  
St. Joseph, Missouri



Dear Sir:

Your recent request for an official opinion has been assigned to me to answer. You thus state your opinion request:

"Chapter 10, Article XV, Section 10-432 of the Municipal Code of the City of St. Joseph, Missouri provides as follows:

"APPLICATION FOR PERMIT. 'Application for a permit under this code shall be made on blanks furnished by the city, in writing, by the person, master plumber or journeyman plumber having in charge the work to be done, showing the number and kind of fixtures to be done, showing the number and kind of fixtures to be installed, or openings left in sewer, soil, waste or vent pipes for fixtures, together with a copy of specifications of work to be done; also, the correct street and house number, the name of the owner of the premises and signed by the person, master plumber or journeyman plumber, accompanied by a receipt from the city treasurer for the amount of fees, hereinafter provided for.'

"Sections 341.010 through Section 341.080 contain certain provisions including a penalty for the violation of such sections.

"Members of the Plumbers Union have reason to believe that certain persons who are neither master plumbers or journeymen plumbers, have, after having been granted

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a permit under Section 10-342, done plumbing work. It is our further understanding that these persons are relying on that section as a defense, if charged with a misdemeanor as provided for in Section 341.080.

"In my opinion, Section 10-342 does not provide insulation from prosecution under Chapter 341 R. S. Mo. Would you please be so kind as to give me the benefit of your views on this matter."

We infer, from your letter, that your question is: If a person violates Sections 341.010 through 341.070, RSMo 1949, can he be prosecuted under Section 341.080, RSMo 1949, even though he holds the permit provided for in Chapter 10, Article 15, Section 10-342 of the Municipal Code of St. Joseph, Missouri?

Section 341.010, RSMo 1949, reads:

"That any person now or hereafter engaging or working at the business of plumbing in cities or towns of fifteen thousand or more inhabitants in this state, either as master plumber or journeyman plumber, shall first receive a certificate thereof in accordance with the provisions of sections 341.010 to 341.080."

Section 341.080, RSMo 1949, reads:

"Any person violating any provisions of sections 341.010 to 341.080 shall be deemed guilty of a misdemeanor."

We believe that such a person can be prosecuted under Section 341.080, supra. Sections 341.010 through 341.080, RSMo 1949, are the laws of the State of Missouri pertaining to plumbers in cities of 15,000 inhabitants or more. For a violation of Sections 341.010 through 341.070 a person may be prosecuted, in the county in which he lives, by the official in that county who is charged with the enforcement of the laws of the state, which official is, of course, the prosecuting attorney.

The Municipal Code of St. Joseph is an entirely separate body of law from the laws of the State of Missouri. In the case of Vest v. Kansas City, 355 Mo. 1, l.c. 3, the Court stated:

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"There is nothing in the constitution or laws of the State which prohibits a city council from enacting supplemental ordinances in addition to State laws. City of St. Louis v. Klausmeier, 213 Mo. 119, 112 S.W. 516. The fact that a state has enacted regulations governing an occupation does not of itself prohibit a municipality from exacting additional requirements. So long as there is no conflict between the two, both the statute and ordinance will stand. 'As a general rule, additional regulation to that of the state law does not constitute a conflict therewith. The fact that an ordinance enlarges upon the provisions of a statute by requiring more than the statute requires creates no conflict therewith, unless the statute limits the requirement for all cases to its own prescriptions.' 43 C. J. Mun. Corps. sec. 220(b)."

The Municipal Code of St. Joseph is applicable to and is enforceable only in St. Joseph. Furthermore its enforcement is the responsibility of the City Attorney of St. Joseph and not the Prosecuting Attorney of Buchanan County. If a person complies with the Municipal Code of St. Joseph and violates Sections 341.010 through 341.070, RSMo 1949, he could be prosecuted under Section 341.080, supra, even though a permit for plumbing work has been obtained.

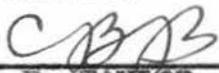
#### CONCLUSION

It is the opinion of this department that a person may be prosecuted for violation of a state law regulating plumbing even though he has obtained a permit to perform specific plumbing work under provisions of a city ordinance, if he violates such state law.

Respectfully submitted,

HUGH P. WILLIAMSON  
Assistant Attorney General

APPROVED:

  
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J. E. TAYLOR  
Attorney General

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