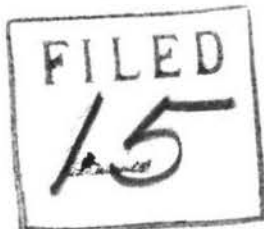


AGRICULTURE:



) Under Section 266.080, Mo. R.S., Cum. Supp. 1951,  
) a farmer or seed producer selling seed of his own  
) production, who delivers such seed to a purchaser  
) via a common carrier, or who advertises same in a  
) newspaper published outside the county of his resi-  
) dence, is a seedsman and must comply with all the  
) requirements of the Missouri Seed Law. The member-  
) ship of such producer in the Missouri Seed Improve-  
) ment Association, an organization which tests and  
) certifies seed produced by its members, does not  
) take such producer outside the purview of such  
) statute.

September 1, 1953

Honorable L. C. Carpenter  
Commissioner  
State Department of Agriculture  
Jefferson City, Missouri

Dear Sir:

We have your opinion request of August 19, 1953, which re-  
quest reads as follows:

"The Missouri Seed Improvement Association, incorporated as a non-profit association under the State Law of Missouri, concerns its self with the production and distribution of certified seed. This association, as a group, holds a seedsman's permit, the number (4800) of which appears on all containers bearing certified seed labels. These labels carry the information as to seed identification required by the Missouri Seed Law (sections 266.010 to 266.130) and in addition the growers declaration and the growers signature. The apparent intent of this association is that a joint responsibility for the seed is assumed by the grower and the Missouri Seed Improvement Association.

"The growers of certified seed are farmers selling seed of their own production, however, advertisements of this seed will appear in publications outside of the county in which the growers reside; also common carriers would be used in delivering this seed in some cases.

"Section 266.080 of the Missouri Seed Law provides that under certain conditions farmers are not required to comply with sections 266.050, 266.050 and 266.070 of this act.

Honorable L. C. Carpenter

"Will you please give us an opinion as to whether the growers and sellers of certified seed come within the farmer-exemption clause or if these growers would be termed 'seedsmen' as defined in the Missouri Seed Law.

"A booklet entitled 'Missouri Seed News' is enclosed as reference material in regard to the Missouri Seed Improvement Association."

The Missouri Seed Improvement Association does not, we understand from your letter and from a pamphlet you have enclosed, buy or sell seed. We understand that it merely tests seed produced by members of the Association, and, if found to measure up to its quality standards, certifies such seed to measure up to such standards. The grower then sells the seed.

The answer to the question raised in your request is answered by a portion of Section 266.080, Mo. R.S., Cum. Supp. 1951, reading thus:

"(3) \* \* \* except farmers and seed producers shall be classed as seedsmen and must comply with all the provisions of sections 266.011 to 266.120 when such farmers or seed producers

\* \* \* \* \*

"(b) Sell and deliver seed to a purchaser by way of common carrier.

\* \* \* \* \*

"(d) Advertises seed for sale by any of the recognized advertising media, provided this shall not prohibit the insertion of notices or advertisements in newspapers or publications published in the county in which such farmer or seed grower resides or the posting of notices in the county in which he resides, provided that in such notices or advertisements no statement is made of the quality, purity, or cleanliness of the seed."

The obvious meaning of this section is that farmers and seed producers shall be classed as seedsmen and must comply with all

Honorable L. C. Carpenter

the provisions of the Missouri Seed Law, when they deliver seed of their own production to a purchaser via common carrier, or when they advertise it by newspapers published outside the county in which the grower resides.

Their membership in the Missouri Seed Improvement Association cannot serve to take such seed producers out of the purview of this statute.

CONCLUSION

It is the opinion of this office that under Section 266.080, Mo. R.S., Cum. Supp. 1951, a farmer or seed producer selling seed of his own production, who delivers such seed to a purchaser via a common carrier, or who advertises same in a newspaper published outside the county of his residence, is a seedsman and must comply with all the requirements of the Missouri Seed Law. It is further our opinion that the membership of such producer in the Missouri Seed Improvement Association, an organization which tests and certifies seed produced by its members, does not take such producer outside the purview of such statute.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, Mr. W. Don Kennedy.

Yours very truly,

JOHN M. DALTON  
Attorney General

WDK:fh,lw