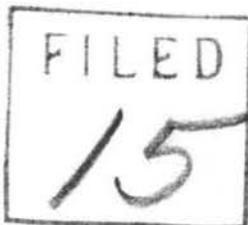


AGRICULTURE:



) A statement in an advertisement that seed has been  
) "cleaned" or "re-cleaned" is not a "statement of the  
) quality, purity, or cleanliness of the seed" within  
) the contemplation of Subsection (3) (d) of Section  
) 266.080, Cum. Supp. 1951; and that a farmer selling  
) seed of his own production is not, by reason of use  
) of such description in advertising, deprived of the  
) exemption provided him by said section.

September 3, 1953

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

Dear Sir:

We have your opinion request of August 17, 1953, which request reads as follows:

"Section 266.080 of the Missouri Seed Law provides that under certain conditions, farmers are not required to comply with Sections 266.050, 266.060, and 266.070 of this act.

"Among these provisions is the right to advertise in newspapers or publications published in the county in which the farmer resides, provided that such advertisements do not contain any statements with reference to quality, purity or cleanliness of the seed.

"The following notices are examples of local advertising found by our inspectors:

"Balboa Rye: Re-cleaned and sacked. \$2.10 bushel. Kentucky 31 Fescue cleaned. 15¢ pound. Ray Swisher, 4 miles west of Warrensburg on Highway 50."

"For Sale: Recleaned Balboa rye seed \$3.00 per bushel. James M. Eppright, Warrensburg."

"For Sale: Good recleaned Balboa Rye, plenty of it. \$1.75 per bu. W. B. Skidmore, Knob Noster, Mo. Route 1."

Honorable L. C. Carpenter

"It is our interpretation that the use of the word 're-cleaned' is a reference to quality and cleanliness of the seed and therefore should not be used in advertising; and that when such word is used in local advertising the person inserting such notice becomes a 'seedsman' as defined in this act, and must comply with all provisions of the act.

"Will you please give us an opinion as to whether the word 're-cleaned' can be used in advertising by farmers claiming exemption from the provisions of the Missouri Seed Law."

Subsection (3) of Section 266.080, Mo. R. S., Cum. Supp. 1951, exempts farmers who sell seed of their own production from the operation of Sections 266.051, 266.061 and 266.071, Mo. R. S., Cum. Supp. 1951, unless they do any one of a number of things described in Subsections (3)(a), (3)(b), (3)(c) and (3)(d) of Section 266.080, Mo. R. S., Cum. Supp. 1951. Subsection (3)(d) reads as follows:

"(3)(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."

This portion of the statute will permit a farmer to advertise seed of his own production in a newspaper published in the county of his residence, if in such advertisement "no statement is made of the quality, purity, or cleanliness of the seed," and still be exempt from the operation of Sections 266.051, 266.061 and 266.071, Mo. R. S., Cum. Supp. 1951.

We do not believe that a statement in an ad, describing advertised seed as "re-cleaned" or "cleaned" is such a statement of cleanliness, quality or purity as will deprive the farmer of the exemption provided by Section 266.080, Subsection (3), Mo. R. S., Cum. Supp. 1951.

Honorable L. C. Carpenter

The statement that seed has been "cleaned" or "re-cleaned" conveys to a farmer the thought that the seed has gone through a mechanical process, the object of which is to separate weed seeds and chaff. The statement that seed has been "cleaned" or "re-cleaned," then, is equivalent to a statement that such seed has been subjected to this mechanical separation process. Notice that there is no statement as to the effectiveness of the process, no statement that the seed is "clean." We do not believe it is a "statement of the \* \* \* cleanliness of the seed," within the contemplation of the statute.

It is not a statement of the "quality" or "purity" of the seed. This refers, we believe, to something other than the presence or absence of extraneous matter in the seed in bulk (which is covered by the use of the word "cleanliness" in the statute), but refers instead to such qualities as percentage of germination, and physical size of the individual seed.

#### CONCLUSION

It is the opinion of this office that a statement in an advertisement that seed has been "cleaned" or "re-cleaned" is not a "statement of the quality, purity, or cleanliness of the seed" within the contemplation of Subsection (3)(d) of Section 266.080, Mo. R. S., Cum. Supp. 1951; and that a farmer selling seed of his own production is not, by reason of use of such description in advertising, deprived of the exemption provided him by said section.

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