

LICENSES: Bakery products such as cakes, bread, etc. are not  
PEDDLERS: "Agricultural and Horticultural Products" under the  
exception in Sec. 150.470, RSMo. 1949.  
The term "land carriage" used in paragraph 3 of Sec.  
150.500 RSMo. 1949 would include motor vehicles

JOHN M. DALTON  
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May 18, 1953



XXXXXXXXXX

J. C. Johnsen

Mr. John P. Peters  
Prosecuting Attorney  
Linn, Missouri

Dear Mr. Peters:

We are acknowledging receipt of your request for an opinion as follows:

"I write to inquire, if the Exception mentioned in Section 150.470, Statute relating to Peddlers, would include bread, cakes, muffins cinnamon Rolls, and Bakery Products Generally, as "Agricultural and Horticultural products". Also would a Motor Vehicle, used in such business, be a "Land Carriage" within the meaning of the subdivision, of the Statute, fixing rates for Licenses of Peddlers."

You first inquire whether persons who sell Bakery Products such as cakes, bread, etc. would come under the exception as "Agriculture and Horticulture Products" under Section 150.470, RSMo. 1949.

In *Getty v. Barnes Milling Co.*, 19 Pac. 617, 618 the court said:

"The product of agriculture is that which is the direct result of husbandry and culture of the soil. It embraces the product in its natural unmanufactured condition, as cotton is a product of agriculture: yet cotton cloth or other fabrics made from cotton could hardly be termed 'Agricultural products'."

Mr. John P. Peters

In *St. Louis Rose Co. v. Unemployment Compensation Commission*, 159 S.W.(2d) 249, 250, our Supreme Court defines Horticulture as "The cultivation of a garden or orchard: the science and art of growing fruits, vegetables and flowers or ornamental plants. Horticulture is one of the main divisions of agriculture."

Also, in *Crawley v. State*, 195 S.E. 453, 57 Ga. App. 376, it is held that "Groceries and candy are not 'agricultural products' within a statutory exemption of seller of such products from the necessity of obtaining a peddler's license."

It would appear from the foregoing that bread, cakes, muffins, etc. are not "Agriculture and Horticulture Products" within the meaning of the statute. They are manufactured articles and are not products in their natural unmanufactured condition.

You next inquire whether a motor vehicle is a "land carriage" under provisions of paragraph 3 of Section 150.500 RSMo. 1949.

It is generally held that a motor vehicle is a "carriage" under exemption laws allowing a head of a family a carriage as exempt. *Willis v. Schoelman*, 206 S.W.(2d) 283, Texas; *Heckman v. Heckman*, 234 S.W.(2d) 410, 414, Texas.

#### CONCLUSION

It is therefore our opinion that:

1. Bakery products such as cakes, bread, etc., are not "Agricultural and Horticultural Products" under the exception in Section 150.470, RSMo. 1949,
2. The term "land carriage" used in paragraph 3 of Section 150.500, RSMo. 1949, would include motor vehicles.

This opinion, which I hereby approve was written by my assistant Mr. Frank W. Hayes.

Yours very truly,

JOHN M. DALTON  
Attorney General