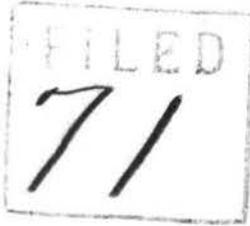


AGRICULTURE:) A field representative or field superintendent
DAIRY PRODUCTS:) employed or acting on behalf of a dairy products
) manufacturing plant located in another state or
) for a cream station or milk route is not required
) to obtain a field superintendent's license under
) the provisions of Section 196.605, RSMo 1949.



June 19, 1953

Honorable Paul L. Porter
Director of Dairy Division
Department of Agriculture
Jefferson City, Missouri

Dear Sir:

We render herewith our opinion on your request dated May 28, 1953, which request reads as follows:

"We have fieldmen who live in another state who solicit or act as procurement men for creameries of another state for cream and milk from Missouri. Some have part ownership in cream and milk truck routes; some who solicit for routes only; some who are on company payrolls and some who are not; some who work for companies who have only cream buying stations in the state who buy cream and milk from Missouri for processing in another state.

"Part of these men have field superintendent's licenses and some do not. Some of these men have had field superintendent's licenses for a number of years as an accepted requirement.

"The question now arises as to what authority does the Department of Agriculture have in requiring the licensing of these men?

"We are respectfully requesting an interpretation of the law on this matter."

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Section 196.525, RSMo 1949, defines a field superintendent as follows:

"196.525. Definitions.-- * * *

"(28) The term 'field superintendent' means any qualified person who is the duly authorized field representative of any one or more dairy products manufacturing plants;"

The "fieldmen" to whom you refer we will assume to be the field superintendents so defined or to perform duties identical to those of a field superintendent except that they represent a cream station or a milk truck route instead of a dairy products manufacturing plant.

The statute requiring the licensing of field superintendents under certain circumstances is Section 196.605. The pertinent portion thereof is subsection 2, which reads as follows:

"2. A field superintendent, prior to performing his duties for a dairy products manufacturing plant in Missouri, must obtain a field superintendent's license from the department. This license, which also grants authority to test, grade, and sample milk or cream, can be issued only to an individual free from communicable disease, who has passed a written examination grading seventy or above, and has paid the annual fee of five dollars; such license may be renewed upon payment of the annual fee, unless previously revoked for cause. Such license is not transferable."

The fundamental question involved is whether the words "in Missouri," as used in the quoted portion of the statute, modify the phrase "performing his duties," thus requiring a field superintendent to be licensed before performing his duties in Missouri regardless whether the dairy products manufacturing plant is located in Missouri or elsewhere; or whether they modify "dairy products manufacturing plant," thus requiring a license only where the duties are performed for a dairy products manufacturing plant located in Missouri.

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We believe the latter to be the correct interpretation. The rule of grammar is that a modifier, which could logically relate to either of two objects, relates to that object standing closest to it in the sentence. This rule is frequently applied in the interpretation of statutes. In 50 Am. Jur., Statutes, Section 269, page 258, the rule is stated as follows:

"In construing statutes, qualifying words, phrases, and clauses are ordinarily confined to the last antecedent, or to the words and phrases immediately preceding. The last antecedent, within the meaning of this rule, has been regarded as the last word which can be made an antecedent without impairing the meaning of the sentence. * * *"

This rule is only an aid in ascertaining the legislative intent and is not to be slavishly applied if other circumstances point to a different legislative intent. See 50 Am. Jur., Statutes, Section 269, page 258. In the statute at hand, however, the conclusion that "in Missouri" is intended to modify "dairy products manufacturing plant" is further buttressed by the provisions of the remainder of the statute. The provision for field superintendents' licenses is set between two other provisions relating to dairy products manufacturing plants -- one prohibiting the operation of such a plant or a cream station "within this state" without a license; and the other requiring that each dairy products manufacturing plant "operating in this state" apply for a license. Indeed, the entire remainder of said Section 196.605 is concerned with the dairy products manufacturing plant located or operated in Missouri; and to hold that, when referring to dairy products manufacturing plants, the portion relating to licensing of field superintendents means plants operated outside the state, would make this portion an anachronism.

"The different parts of a statute reflect light upon each other, and statutory provisions are regarded as in pari materia where they are parts of the same act. Hence, a statute should be construed in its

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entirety, and as a whole. * * *
All parts of the act should be
considered, compared, and construed
together. * * *ⁿ (50 Am. Jur.,
Statutes, Section 352.)

Notice that there is no licensing requirement for persons representing a milk truck route or a cream station, though their duties may otherwise be identical with those of a field superintendent.

CONCLUSION

We conclude, therefore, that a field superintendent employed or acting on behalf of a dairy products manufacturing plant located in another state or a person representing a cream station or milk truck route, though his duties might otherwise be identical with those of a field superintendent as defined by statute, is not required to obtain a field superintendent's license under the provisions of Section 196.605, RSMo 1949.

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