

WAREHOUSES:  
PUBLIC WAREHOUSES:  
DEPARTMENT OF  
AGRICULTURE:

The provisions of Section 411.260 RSMo 1949, relating to the licensing of public warehouses is optional with "local public warehouses", and such licensing is not mandatory.



August 27, 1956

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

Dear Mr. Carpenter:

Reference is made to your request for an official opinion of this office, which request reads as follows:

"A problem has arisen within the Department relating to the new provisions of Chapter 411 of the Revised Statutes of Missouri, 1949, as was enacted by the last Legislature and with relation to the old provisions of that Chapter.

"Old Section 411.260, which was the section providing for the licensing of all commercial mills and grain elevators, provided in the last sentence at subparagraph 3, 'The provisions of this section shall be optional with local public warehouses as defined in Section 411.250.'

"My question is whether or not, since 411.250 has been repealed, the option provision cited above is of no effect or whether it still stands and, of course, finding whether public warehouses and local public warehouses, as well as terminal public warehouses, are now required to meet the licensing provisions of 411.260."

Section 411.260 RSMo 1949, to which you refer, provides as follows:

"1. Any persons, firm, corporation, or association save as here'in provided desiring to engage in business as a public warehouseman in this state shall, before the transaction of any such business, present to the commissioner, on a form designated by him, a written application for a license for each separate warehouse, or designated part thereof, at which he desires to do such business, setting forth

"(1) The exact description and location thereof;

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"(2) The individual name and address of each person interested as principal in the business;

"(3) In case the business is operated or to be operated by a corporation the names of the president and secretary;

"(4) A complete certified financial statement of recent date on a blank furnished by the commissioner;

"(5) And such further information as the commissioner may require;

"(6) And the operator shall designate whether a local public warehouse license or a terminal public warehouse license is applied for.

"2. Every such application shall be accompanied by a license fee to be fixed by the commissioner, but not in excess of five dollars.

"3. The license herein provided for may be granted by the commissioner at his discretion. The provisions of this section shall be optional with local public warehouses as defined in section 411.250."

Said section does, as you indicate, provide that the licensing provisions shall be optional with local public warehouses, as defined in Sec. 411.250 RSMo 1949. Section 411.250, referred to, was repealed by the 68th General Assembly, as were Sections 411.230 and 411.240 RSMo 1949. Section 411.230 defined public and private warehouses and Section 411.240 defined terminal public warehouses. In lieu of these definition sections, the 68th General Assembly enacted Section 411.025, which section defines certain terms contained in Chapter 411, including definitions of "public warehouses", "private warehouses", "terminal public warehouses," and "local public warehouses". These definitions are specifically made applicable to the provisions of Section 411.260 by the following language:

"The following words, terms and phrases, when used in sections 411.010 to 411.570, have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:"

A local public warehouse is defined as follows:

"(7) 'Local public warehouse' means any public warehouse which is not a terminal public warehouse as defined in subdivision (6) of this section."

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This definition is practically identical with the definition contained in Section 411.250 RSMo 1949, which section provided as follows:

"The term 'local public warehouse' as used in sections 411.010 to 411.570 shall mean any public warehouse which is not a terminal public warehouse as defined in section 411.240."

In view of the foregoing, it is our opinion that the reference to "local public warehouses" in Section 411.260 is not rendered meaningless by a repeal of Section 411.250, since the definition therein contained is now incorporated in Section 411.025, which section is specifically made applicable to the provisions of Section 411.260, and that the legislative intention to make the provisions of Section 411.260 optional with local public warehouses is sufficiently manifested and preserved.

#### CONCLUSION

Therefore, it is the opinion of this office that the provisions of Section 411.260 RSMo 1949, relating to the licensing of public warehouses, is optional with "local public warehouses" and such licensing is not mandatory.

The foregoing opinion, which I hereby approve, was prepared by my assistant, Donal D. Guffey.

Very truly yours,

John M. Dalton  
Attorney General

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