

REFUSE DISPOSAL AREA:
JUNK DEALERS:
SALVAGE YARDS:
LICENSE:

A junk dealer who operates a salvage or junk yard would not be obliged to procure a license to operate a refuse disposal area, and a dealer who operated a used-car salvage supply lot will not be obliged to procure a license to operate a refuse disposal area.



January 20, 1956

Honorable W. H. S. O'Brien
Prosecuting Attorney
Jefferson County
Hillsboro, Missouri

Dear Sir:

I am in receipt of your recent request for an official opinion based upon the following questions addressed to you by the Clerk of the County Court of your county:

"1. Will a junk dealer who operates a salvage or junk yard be obligated to procure a license to operate a refuse disposal area.

"2. Will a dealer who operates a used car salvage supply lot be obligated to procure a license to operate a refuse disposal area."

You have informed us orally that the situation is that a person, who we will call "Jones," has a license to operate a junk yard, the question is whether, since the passage of the County Option Dumping Ground Law, Jones must have, in addition to his license to operate a junk yard, a license under the above new law to operate a disposal area, or perhaps simply a license to operate a disposal area and not a license to operate a junk yard, although he will in fact continue to operate only a junk yard.

We do not believe that the operator of a junk yard needs to have a license to operate a disposal area and we do not believe that he could operate a junk yard on a license to operate a disposal area only. To hold that he did require a disposal area license would be to hold that junk yard was a disposal area, which it clearly is not.

Section 64.460 of the disposal area laws reads:

"Definitions.-- As used in sections 64.460 to 64.487, the following terms mean:

"(1) 'Ashes', the residue from the burning of wood, coal, coke, or other combustible materials;

"(2) 'Garbage', putrescible animal and vegetable wastes resulting from the handling, preparation,

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cooking, and consumption of food;

"(3) 'Refuse', all putrescible and nonputrescible solid wastes (except body wastes) including garbage, rubbish, ashes, street cleanings, dead animals, abandoned automobiles, and solid market and industrial wastes;

"(4) 'Rubbish', nonputrescible solid wastes, excluding ashes, consisting of both combustible and noncombustible wastes, such as paper, cardboard, tin cans, yard clippings, wood, glass, bedding, crockery, and similar materials."

Section 64.463 reads:

"Dumping in unlicensed areas prohibited.-- No person shall dispose of any ashes, garbage, rubbish or refuse at any place except a disposal area licensed as provided in sections 64.460 to 64.487."

Section 64.467 reads:

"Application for dumping ground, fee.-- 1. Any person desiring a license to operate a disposal area shall make application therefor to the county court on forms provided by it.

"The application shall contain the name and residence of the applicant, the location of the proposed disposal area, and such other information as may be necessary. The application shall be accompanied by a fee of twenty-five dollars."

Following sections prescribe that the area selected shall be inspected and approved by the State Division of Health; that the county court may, under certain circumstances, revoke the license; that the Division of Health shall promulgate rules and regulations governing the operations of a disposal area; certain exceptions to the law; that the law shall not become operative in any county until the county court so orders; and finally a section making violation of the law a misdemeanor.

It will be noted that this is a new law; that its administration is solely under the jurisdiction of the county court, and, to some extent, of the State Division of Health. Since this is a new law it

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is obvious that the legislature did not feel that any existing law, such as the law relating to junk yards or used-car salvage yards, did what the new law was intended to do.

Let us now look at this latter law. Paragraph 17 of Section 73.110 RSMo 1949, gives a city of the first class power to "license, tax and regulate * * * junk dealers * * *."

Paragraph 2 of Section 74.127 does the same for cities of the first class with an alternative form of government.

Paragraph 18 of Section 75.110 does the same for cities of the second class.

Section 94.360 does the same for special charter cities, and Section 94.110 does the same for third class cities. Other sections prohibit a junk dealer from dealing with a minor except under certain circumstances.

The only point where the county option dumping ground law and the law relating to junk yards and auto wrecking yards touches, is that the former, under one of its four headings in enumerating items included under that head lists "abandoned automobiles." It must be obvious that the "county option dumping ground law," and the laws relating to junk yards and automobile wrecking yards are wholly different things; that they are intended for different purposes; that the administration is different, and that these two types of yards are put to different uses.

CONCLUSION

It is the opinion of this department that a junk dealer who operates a salvage or junk yard would not be obliged to procure a license to operate a refuse disposal area, and that a dealer who operated a used-car salvage supply lot will not be obliged to procure a license to operate a refuse disposal area.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, Hugh P. Williamson.

Yours very truly,

John M. Dalton
Attorney General

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