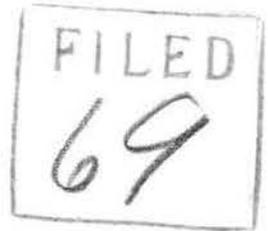


February 14, 1964



Opinion No. 69  
Answered by Letter

Honorable Charles P. Moll  
Prosecuting Attorney  
Franklin County  
Union, Missouri

Dear Mr. Moll:

This is in response to your recent request for an opinion concerning Section 229.180, RSMo 1959. This section provides:

"No auto wrecking yard or junk yard shall be established, maintained or operated within two hundred feet of any state or county road \* \* \*"

unless it is screened as provided by said statute. The location of the junk yard is below the level of the highway so that it is impractical to screen the junk yard from the view of persons on the highway. The statute is violated because the junk yard is established, maintained or operated within two hundred feet of the highway without screening. The provision relative to screening is an exception to the general prohibition and permits operations within two hundred feet of the highway if it is in fact screened as provided. The impracticality or cost of screening is immaterial.

Your question is: What action can the prosecuting attorney take?

Section 229.190 declares the violation of Section 229.180 a misdemeanor and Section 229.200 provides the penalty for such violation. Hence, you can file an information charging the misdemeanor.

Honorable Charles P. Moll

Second, you may desire to consider bringing an injunction suit for the abatement of a public nuisance. For general principles involved in such an action, you may consult State ex rel Collet v. Errington, 317 SW2d 326.

Very truly yours,

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THOMAS F. EAGLETON  
Attorney General