

December 15, 1964



Honorable F. M. Brady
Prosecuting Attorney
Benton County
Warsaw, Missouri

Dear Mr. Brady:

We have your letter of November 28, 1964, in which you request an opinion of this office regarding possible criminal violations arising out of the following facts:

An individual has been appointed a sub-agent by the county clerk for the purpose of selling hunting and fishing permits pursuant to Section 2.25 (a) of the Rules and Regulations of the Missouri Conservation Commission (Wildlife Code). A number of permits have been sold over a period of months by this sub-agent, but he has failed to remit the fees therefor to the county clerk as required by the previously cited section and has converted them to his own use. The permit fees involved amount to several hundred dollars.

In that the sub-agent acquired possession of the money lawfully and subsequently converted the funds to his own use contrary to law, he is guilty of embezzlement under earlier Missouri statutes, *State v. Roussin*, 354 Mo. 522, 189 S.W. 2d 983. However, in 1955 the General Assembly enacted Sections 560.156-560.161, RSMo 1959, creating the crime of stealing and providing the penalties therefor. A primary purpose in the enactment of these statutes was to eliminate the technical distinctions between the offenses of larceny, embezzlement and obtaining money under false pretenses, *State v. Gale*, Mo., 322 S.W. 2d 852, 854.

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As a result, the sub-agent referred to in your letter may be charged with stealing pursuant to Section 560.156, RSMo 1959. Since the money involved is in an amount in excess of Fifty Dollars, the charge is a felony, Section 560.161 (2), RSMo 1959.

Yours very truly,

THOMAS F. EAGLETON
Attorney General

JN:BJ