

June 6, 1969



Opinion Letter No. 224

Honorable L.M. Garner, M.D., M.P.H.  
Acting Director  
Missouri Division of Health  
Broadway State Office Building  
Jefferson City, Missouri 65101

Dear Dr. Garner:

This letter is in response to an opinion request from you in which you inquire as to whether or not the Missouri Division of Health has the authority to promulgate regulations with respect to food products and whether the Division may set such standards if none are prescribed by the federal act.

You enclosed and attached to your opinion request a letter from this office dated February 5, 1958, addressed to the Honorable H.M. Hardwicke, who was the former acting director of the Division of Health. That letter was not an official opinion, and the reasoning upon which the conclusion was based is not clear. The answer in that letter however was negative; and after a thorough examination of the sections involved, we believe that the reasoning and the conclusion reached were clearly in error.

That is, under Section 196.045, RSMo 1959, the Division of Health has authority to promulgate regulations for the enforcement of Sections 196.010 to 196.120, and such regulations must conform insofar as practicable with those promulgated under the federal act. In Section 196.050, RSMo 1959, the Division is prohibited from promulgating any regulation or establishing any definitions or standards which are more rigid or more stringent than those prescribed by the federal act applying to any commodity covered by Sections 196.010 to 196.120; and if any commodity or product covered by said sections complies with the definitions and standards prescribed by the federal act, it shall be deemed to comply with these sections.

Honorable L. M. Garner

It is clear from the above sections and other references to regulations and standards contained within Sections 196.010 to Section 196.120 that the Division of Health does have the authority to promulgate regulations and standards within the limits stated for the proper enforcement of these sections.

Further, we are of the opinion that the legislature empowered the Division of Health with authority to promulgate regulations and to set standards with respect to commodities not covered by federal law.

Yours very truly,

JOHN C. DANFORTH  
Attorney General