

SHERIFFS: Except for special or emergency
DEPUTY SHERIFFS: deputy sheriffs appointed for a
period not exceeding thirty days
under provisions of Section 57.119, RSMo, deputy sheriffs can
lawfully be appointed in a county of the second class only in
the number fixed by the judges of the circuit court of such
county and in the manner provided in Section 57.220, RSMo. A
person holding an "honorary deputy sheriff's commission" that
is one not issued under the provisions of Sections 57.119 or
57.220, RSMo, is not in contemplation of law a deputy sheriff
and is not authorized to carry concealed weapons.

OPINION NO. 299

November 21, 1972

Honorable Dee Wampler
Prosecuting Attorney
Greene County, 206 Court House
Springfield, Missouri 65802



Dear Mr. Wampler:

This is in answer to your opinion request of recent date in which you ask as to the status of a person possessing an "honorary deputy sheriff's commission" in a second class county. It is our understanding that you refer to persons who have been issued purported commissions as deputy sheriffs by the sheriff and whose appointments have not been authorized or approved by the circuit court of such county and who are not appointed as emergency or special deputy sheriffs for a period of not to exceed thirty days as authorized by Section 57.119, RSMo. You further ask whether the persons possessing these "honorary deputy sheriff's commissions" are authorized under Section 564.610, RSMo, to carry concealed weapons.

Your opinion request is answered by several former opinions of this office, copies of which we enclose.

Opinion Letter No. 136 rendered April 30, 1969, to G. William Weier, holds that, with the exception of emergency or special deputies appointed for a period of not to exceed thirty days as provided for in Section 57.119, RSMo, deputy sheriffs cannot be appointed in a second class county except under provisions of Section 57.220, which provides that the judges of the circuit court shall determine the number of deputy sheriffs to be appointed in such county.

Honorable Dee Wampler

Opinion Letter No. 373 rendered September 11, 1969, to G. William Weier, holds that in second class counties under provisions of Section 57.220, RSMo, the number of deputy sheriffs other than emergency or special deputy sheriffs for a period of not to exceed thirty days can be appointed only in the number authorized by the circuit judges of such county. The opinion further holds that the circuit judges may by agreement with the sheriff provide for a nominal payment for such deputies and that there is no authorization to appoint deputies to serve without compensation.

Opinion No. 99 rendered May 24, 1956, to James E. Woodfill, holds that lawfully appointed deputy sheriffs are, under the provisions of Section 564.610, RSMo, lawfully authorized to carry concealed weapons. It is clear, of course, that in order for a deputy sheriff to come within the exemption provisions of Section 564.610 it is necessary that his appointment be one authorized by law. It follows, therefore, that a person holding an "honorary deputy sheriff's commission" in a second class county not issued as provided for in either Sections 57.119 or 57.220, RSMo, is not a "deputy sheriff" within the meaning of Section 564.610 and has no lawful right to carry concealed weapons.

CONCLUSION

It is the opinion of this office that except for special or emergency deputy sheriffs appointed for a period not exceeding thirty days under provisions of Section 57.119, RSMo, deputy sheriffs can lawfully be appointed in a county of the second class only in the number fixed by the judges of the circuit court of such county and in the manner provided in Section 57.220, RSMo. A person holding an "honorary deputy sheriff's commission" that is one not issued under the provisions of Sections 57.119 or 57.220, RSMo, is not in contemplation of law a deputy sheriff and is not authorized to carry concealed weapons.

The foregoing opinion, which I hereby approve, was prepared by my assistant, C. B. Burns, Jr.

Very truly yours,



JOHN C. DANFORTH
Attorney General

Enclosures: Op. Ltr. No. 136, 4/30/69, Weier
Op. Ltr. No. 373, 9/11/69, Weier
Op. No. 99, 5/24/56, Woodfill