

AGRICULTURE:
EGG DEALERS:
LICENSES:

The Commissioner of Agriculture may not delay the licensing of egg retailers, dealers and processors to a date beyond the date when such person, firms or corporations are required to obtain licenses as provided by existing law.



June 10, 1955

Honorable L. C. Carpenter
Commissioner of Agriculture
State of Missouri
Jefferson City, Missouri

Dear Mr. Carpenter:

Reference is made to your request for an official opinion of this office, which request reads as follows:

"With the passage of House Bill 177 and said Bill being signed by the Governor on recent date, we have a problem concerning the licensing of egg retailers, egg dealers and egg processors.

"Our present egg licenses under existing laws expire on June 30, 1955. This Law, of course, will continue in effect until August 29, 1955, at which time House Bill 177 will become effective. It is our desire to not collect the licenses under the existing laws starting July 1, 1955, but rather to start about the first of July, 1955, sending out applications for licenses to be effective August 29, 1955, under the new Law.

"We would like an opinion at your earliest convenience as to whether or not it will be permissible for us to delay the licensing on July 1, 1955, to August 29, 1955."

The present existing law relating to the licensing of persons, firms or corporations who buy, sell, trade or traffic in eggs in this state is found in Chapter 196, RSMo. 1949.

Section 196.335, RSMo. 1949, provides, in part, as follows:

"1. It shall be unlawful for any person, firm or corporation to buy, sell, trade or

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traffic in eggs in this state without a license with the following exceptions:

* * * * *

"2. Each person firm or corporation engaged in buying, selling, trading or trafficking in eggs, except those listed under subdivisions (1), (2), (3), (4) and (5) above, shall obtain an annual license for each separate place of business from the commissioner of agriculture. The following types of licenses shall be issued:

* * * * *

"4. All licenses shall be conspicuously posted in the place of business to which it applies. The license year shall be twelve months or any fraction thereof beginning July first and ending June thirtieth.

* * * * *

Section 196.350, RSMo 1949, provides that all license fees shall be paid to the Director of Revenue and deposited with the State Treasurer to the credit of the Agricultural Fees Fund.

Section 196.355, supra, provides that the Commissioner of Agriculture shall enforce the foregoing provisions. The 68th General Assembly, by the enactment of House Bill 177, has repealed the above noted 1949 provisions and substituted in lieu thereof several new sections. In view of the fact that the provisions of House Bill 177 are substantially similar to the above noted provisions with the exception that the annual license fees have been increased, we do not deem it necessary for the purpose of this opinion to set forth the provisions of House Bill 177 in full.

House Bill 177 does not include an emergency clause and therefore said bill will not become effective until 90 days after the adjournment of the session, which latter date was May 31, 1955. Sec. 29, Art. III, Constitution of Missouri, 1945.

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You inquire whether the licensing of egg retailers, dealers and processors required by the existing law may be delayed until August 29, 1955, when the provisions of House Bill 177 become effective, we believe the answer must be in the negative.

As noted above, Section 196.335, supra, makes it unlawful for any person, firm, or corporation to buy, sell, trade or traffic in eggs without a license. Said provisions are still in effect, and will be until the effective date of House Bill 177.

We are of the opinion that the Commissioner of Agriculture, who is charged with the enforcement of the egg licensing provisions, may not authorize a violation of the terms of Section 196.335, supra, by refusing to issue a license on or before July 1, 1955, or to otherwise suspend the operation of said provisions and the licensing of egg retailers, dealers and processors should be proceeded with as provided by law.

CONCLUSION

Therefore, it is the opinion of this office that the Commissioner of Agriculture may not delay the licensing of egg retailers, dealers and processors to a date beyond the date when such person, firms or corporations are required to obtain licenses as provided by existing law.

The foregoing opinion, which I hereby approve, was prepared by my assistant, Mr. Donal D. Guffey.

Yours very truly,

DDG:mw

John M. Dalton
Attorney General