

LABOR DEPARTMENT:

Bake shops employing three or less persons chargeable with fifty cents inspection fee, under Section 13219, R. S. Mo. 1929; Section 13294, not increasing the fee to one dollar.

See 13219-94 R.S. Mo. 1929

October 6, 1933.

Miss Mary Edna Cruzen,
Commissioner of Labor,
Jefferson City, Missouri.

Dear Miss Cruzen:

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We are acknowledging receipt of your letter in which you inquire as follows:

"Has the Labor and Industrial Inspection Department the right under Sec. 13294 R. S. Mo. 1929, to collect a fee of \$1.00 from bakeries employing only one to three men?"

Section 13294, R. S. Mo. 1929, provides as follows:

"It shall be the duty of the commissioner of labor and industrial inspection or his deputy to inspect each bake shop at least twice every twelve months, and for each inspection he may receive a fee of not exceeding one dollar; he may make such additional inspections as conditions may seem to require, but he shall not be entitled to any fee for such additional inspection. It shall be his duty to see that the provisions of this article are carried into effect, and it is hereby made the duty of the prosecuting attorney of each county or city in this state to lend all possible aid in all prosecutions for violation of any of the provisions of this article."

Section 13219, R. S. Mo. 1929, provides as follows:

"The commissioner provided for in this article shall be entitled to demand and receive from the owner, superintendent, manager or other person in charge of every establishment inspected, as provided for by law, the following fee for each inspection made in accordance with the provisions of articles 4, 5, 6, 8, 9 and 10, chapter 95, R. S. 1929, or elsewhere authorized or required of said inspector by law to be made: For the inspection of every building or shop in which three or less persons are employed or found at work, the sum of fifty cents: * * *."

Under Section 13219, R. S. Mo. 1929, for the inspection of a shop where three or less persons are employed, an in-

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spection fee of fifty cents is permitted. Under Section 13294, for the inspection of each bake shop the inspector may receive a fee "not exceeding one dollar."

Section 13219, is the general Section providing for the inspection of all establishments and fixing the rate of fees to be collected therefor. Section 13294, is a special Section dealing with bake shops and must be deemed to restrict and limit Section 13219 in such respects as the two are in conflict. Section 13294 does not say that you are authorized to charge a fee of one dollar under any given set of circumstances, but restricts the charge under any and all circumstances to "not to exceed the sum of one dollar." It does not mean that you are to receive the sum of one dollar for every inspection made. Section 13219, provides where three or more are employed the fee shall be fifty cents and such provision is not in conflict with Section 13294.

As we interpret the two sections, where three or less persons are employed the fee shall be fifty cents, and this is entirely consistent with Section 13294, which says that the fee shall not exceed one dollar.

It is therefore the opinion of this Department that Section 13294 does not authorize the collection of the one dollar fee where only three persons are employed, and that where three or less persons are employed the fee must be collection under Section 13219, which provides for a fee of fifty cents.

Very truly yours,



Assistant Attorney General.

APPROVED:

Attorney General.

FWH:S