

DIVISION OF RESOURCES AND) Division of Resources and Development
DEVELOPMENT:) not authorized under subsection (g) of
AVIATION:) Section 15393.7, Mo. R.S.A., to inspect
SCHOOLS:) flying schools for the Department of
Education.

June 5, 1947

FILED

Copy to Mr. John 7/3

Mr. Hugh Denney, Director
Division of Resources and Development
Department of Business and Administration
Jefferson City, Missouri

Dear Mr. Denney:

This is in reply to your letter of May 27, 1947, requesting an official opinion from this department, which reads as follows:

"For several months this Division's Aviation Section has been cooperating with the State Department of Education in inspecting flying schools for veterans' training courses in aviation. The program has been carried on merely as a cooperative endeavor with the State Department of Education, not as a program of this organization. It has been handled as a routine check when our state aviation engineers were on other regular business.

"There appears now to be a need for follow-up investigations to make sure that facilities, especially the fields themselves, are being maintained in safe flying condition where veterans' training programs are being conducted. It has been suggested that inspection reports should be filled out about every ninety days for each flying school.

"The Commission, in considering this matter, has requested that I secure an opinion from you as to the legal right of this Division to engage in this inspection activity for the State Department

of Education. It is not that we are opposed to cooperating with other state departments, but rather that we not be accused of exceeding the limits of our authorization in such activities.

"The Commission would also like to know if we have exceeded our authority in making the initial inspections before these flight training schools were approved. The basis for our participating in this program is predicated upon subsection "g" of Section 7, House Bill 502 of the 68th General Assembly, which reads as follows: 'encourage the development of the aeronautical resources of the state and aid in an educational program related to aviation.'"

The precise question is whether the State Aviation Engineer of the Division of Resources and Development may continue the inspection activity referred to in your letter for the State Department of Education.

Your attention is directed to House Bill 944 of the 65th General Assembly, found in the Laws of 1945, at page 1721, which directs the Department of Education to employ inspectors for the purpose of complying with Public Law 546 of the 78th Congress, relating to the inspection of educational and training institutions which are qualified and equipped to educate and train returning veterans:

"The Department of Education is hereby empowered and directed to employ a director, inspectors, and other employees for the purpose of complying with the provisions of Public Law 546 of the 78th Congress, relating to the inspection and listing of the educational and training institutions (including industrial establishments), within the state which are qualified and equipped to furnish education or training (including apprenticeships and refresher or re-training training) for returning veterans."

The Division of Resources and Development was created in 1943 for the general purpose of advancing the economic welfare of the people through programs and activities to develop the State's natural resources and industrial opportunities pertaining to commerce, agriculture, mining, forestry, transportation, recreation and aviation (Section 15393.1, Mo. R.S.A.). It is made the duty of the Division, among other things, to: investigate and assemble information regarding the economic resources and industrial opportunities of the State and the particular sections thereof and to formulate plans for the development, conservation and use of these resources; acquaint the people of Missouri with the industries and industrial opportunities and encourage closer cooperation between the industries of the State and with the people by the use of educational and advertising mediums; encourage the development of recreational areas of the State and encourage the public to visit Missouri by the dissemination of information as to the recreational resources and advantages of the State; and to encourage the formation of sectional committees throughout the State and make available to these committees and other groups and organizations, facts, data and information which may be useful in their effort to encourage the location of industries and commercial enterprises within the State (Section 15393.7, Mo. R.S.A.).

Section 15393.7, Subsection (g), reads as follows:

"Encourage the development of the aeronautical resources of the state and aid in an educational program related to aviation." (Underscoring ours.)

In order to determine whether the above provision is sufficient authority upon which the Division can rely in engaging in said inspection activity for the Department of Education, said section must be considered in the light of all the provisions of Sections 15393.1 and 15393.7. This rule is set out in the case of Pugh v. St. Louis Police Relief Ass'n., 179 S. W. (2d) 927, at pages 934-935:

"In construing said statutes the court must be guided by the primary rule of statutory construction, which is to ascertain and give effect to the intention of the lawmakers from the words used in the statutes and to adopt that sense which

harmonizes best with the context thereof and promotes in the fullest measure the apparent policy and objects of the Legislature. State ex rel. Lentine v. State Board of Health, 334 Mo. 220, 65 S. W. 2d 945. See also, Sutherland on Statutory Construction, 2d Ed., Vol. 2, Section 363."

We must determine from the context of these statutory provisions whether or not the Legislature intended the Division to engage in such inspection activities. You will note that under subsection (g) of section 15393.7, the Division is authorized to aid in an educational program related to aviation. We submit that the educational program referred to in that section is not a limited one of instruction in a course of study, but rather is an overall public relations program designed to present to the public the advantages of aviation, to encourage the use of aeronautical facilities in Missouri, and generally to promote the aviation industry; in other words, to educate the public, by advertising and the dissemination of pertinent data and information, in aviation and inform them of the aeronautical resources of the State, thereby encouraging their development. This construction is in keeping with the apparent policy of the General Assembly as set out in Section 15393.7, by which the purposes and objectives of the Division are to be accomplished.

It was clearly not contemplated that the Division of Resources and Development should inspect for the Department of Education veterans flying schools, especially in view of House Bill No. 944 which was enacted subsequently to section 15393.7.

However, we do not believe it follows that the inspections which have already been made should be held for naught but rather that the Department of Education is entitled to take advantage of the assistance rendered by the State Aviation Engineers of the Division of Resources and Development in making an initial inspection before said flight training schools were approved. Further, we believe that our conclusion should not preclude the Department of Education from using such facts, data and information concerning fields and aeronautical resources as the Division of Resources and Development may obtain and compile in the regular course of its duties. This information may be made available to the Department of Education upon its request.

Mr. Hugh Denney, Director

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Conclusion

Therefore, it is the opinion of this department that Section 15393.7, subsection (g) of Mo. R.S.A., does not authorize the Division of Resources and Development of the Department of Business and Administration to inspect flying schools, offering veterans training courses in aviation, for the Department of Education. However, the Department of Education may avail itself of any facts, data and information concerning airfields and aeronautical resources as the Division of Resources and Development may obtain and compile in the regular course of its duties.

Respectfully submitted,

DAVID DONNELLY
Assistant Attorney General

APPROVED:

J. E. TAYLOR
Attorney General

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