HOTELS--TOURIST CAMPS: Tourist Camps with ten or more guest rooms are to be inspected and licensed as hotels.

Probably superseded now - new stat. provides for licensing tourist camps. See 0-25 (Adam-49)

June 9, 1936.

6-9

FILED 59

E. T. McGaugh, M. D.
State Health Commissioner
Jefferson City, Missouri

Dear Doctor McGaugh:

We acknowledge your request for an opinion dated June 2, 1936, which reads as follows:

> "Would the owner of a Tourist Camp consisting of ten or more cabins which were rented as places of lodging, be required to pay a Hotel License Fee?"

Article VII, Chapter 93, R. S. Mo. 1929, deals with health, safety and sanitary requirements of hotels, inns and boarding houses, operating in the State of Missouri, and is a health measure enacted within the police powers of the Legislature. Section 13084 R. S. Mo. 1929 of said chapter makes it the duty of the Food and Drug Commissioner to inspect hotels annually. Section 13091 R. S. Mo. 1929 defines certain buildings or structures to be hotels within the meaning of Article VII, Chapter 93, R. S. Mo. 1929, and reads:

> "That every building or other structure, kept, used, maintained, advertised or held out to the public to be a place where sleeping accomodations are furnished for pay to transient or permanent guests, in which ten or more rooms are furnished for the accommodation of such guests, whether with or without meals, shall for the purpose of this article be deemed a hotel, and upon proper application the food and drug commissioner shall issue to such above

> described business a license to conduct a hotel: Provided, that it shall be unlawful for the owner of any such building or other structure to lease or let the same to be used as a hotel until the same has been inspected and approved by the food and drug commissioner."

Section 13094 R. S. Mo. 1929, provides how guest rooms are to be enumerated on inspection and reads:

> "In all hotels within the meaning of this article the parlor, dining room, kitchen and office shall be construed to mean guest rooms."

Section 13093, R. S. Mo. 1929, provides for the issuance and revocation of hotel licenses in Missouri, and also the graduated fee for the license to operate a hotel in this State.

The whole query turns on the point as to whether a tourist camp operating in this State with ten or more guest cabins fall within the provisions of the Statutes, and the common law of Missouri, regulating the inspection of hotels, inns and boarding houses.

In the case of Metzler v. The Terminal Hotel Company 115 S. W. 1037; 135 Mo. App. 410, l. c. 415, Section 1039, supra, was construed. That Court held that a place where lodging is furnished to transient guests, as well as one where both lodging and food are furnished is a hotel within the meaning of Article VII, Chapter 93, R. S. Mo. 1929. The fact that accommodations were not contiguous did not change a hotel to be something else. The Court said:

> "Suffice to say as far as public policy is concerned, every sound reason for enforcing the full responsibility of innkeepers obtains with as much strength against the keepers of hotels who accept transient guests as lodgers only, as against those who entertain with both lodging and food. And if this responsibility ought to be remitted in some measure, the duty is legislative, not judicial. To all appearances defendant's establishment was

> a fully equipped inn or hotel where both lodging and meals could be procured by a guest. It took no measures to advise guests to the contrary and no doubt derived patronage from the fact that a restuarant was at hand and seemingly appurtenant. Persons stopping in the hotel would have the right to presume defendant was acting as an inkeeper. This ruling we think, is in accord with decisions which have dealt with the question. * * * It is commonly understood a place of transient resort like defendant's is a hotel or inn, and our statutes touching inns and innkeepers point to the like legislative opinion."

CONCLUSION.

To say that tourist camps are not hotels within the meaning of Section 13091, supra, would defeat the legislative intention in said section to protect the wayfaring public in their health and safety against those who entertain transients or permanent guests with sleeping accommodations for pay.

The Legislature realized that without Section 13091, supra, proprietors of tourist camps might reason that they do not keep an inn in the ancient sense of the word. By Section 13091, supra, the Legislature extended the extraordinary common law liability of the auxiliary statutory regulations of innkeepers to include proprietors of buildings and other structures, who in the main offer the same or similar public service to the wayfaring public as innkeepers offer.

The common law and statutory regulations affecting innkeepers was first established centuries ago because traveling was attended with great danger to the life, health, safety and property of the traveler in strange parts. Methods of traveling have changed today. Instead of wayside inns we have hotels and wayside tourist camps, but with the change of the traveler's public accommodations, the reason for the old law has not vanished. Public

policy in this day demands that the life, health, safety and property of the wayfaring traveler be reasonably safeguarded, hence, this inspection and regulation of hotels and inns by the Board of Health extends, in our opinion, to tourist camps of ten or more guest rooms. Such was the intention of the Legislature.

Respectfully submitted

WM. ORR SAWYERS
Assistant Attorney General.

APPROVED:

JOHN W. HOFFMAN, Jr.
(Acting) Attorney General.

WOS:H