

OILS AND MOTOR FUEL: Duty of whom to provide inspection  
and pay inspection fees.

April 4, 1945

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Honorable George Metzger  
State Inspector of Oils  
Department of Oil Inspection  
Jefferson City, Missouri

Dear Mr. Metzger:

Your letter of March 8, requesting an opinion from this Department, has been received, and the writer has been directed to prepare the opinion. Your letter states:

"In accordance with our phone conversation recently, I would be pleased to have you give an opinion as to who is the party responsible for sending samples of petroleum products to this office for inspection, under Section 14688, R.S., Mo. 1939, amended August 2, 1943, covering inspection of Oils."

Section 14688, Laws of Missouri, 1943, page 592, is the Section re-enacted by the Legislature upon the repeal of Section 14688, R.S. Mo. 1939.

Article 2, Chapter 109, R.S. Mo. 1939, containing Sections 14686 to 14712, inclusive, constituted the statutes of this State, prior to the Act of 1943, concerning the inspection of oils. The Legislature of Missouri, Laws of 1943, page 591, repealed Sections 14688, 14689, 14690, 14695 and 14703 of Article 2, Chapter 109, R.S. Mo. 1939, and re-enacted in lieu thereof, four new Sections to be known as Sections 14688 (the section to which you refer in your letter, and upon which you request this opinion), 14689, 14690 and 14695, relating to the same subject. It must be observed that these new Sections are amendments of said Article 2, Chapter 109, R.S. Mo. 1939. There is no new Article or Chapter created, but Article 2, Chapter 109, R.S. Mo. 1939 remains the same, and is referred to as such.

in the amendment repealing the old sections numbered, and re-enacted in the Laws of 1943. It will be observed especially that only five sections of Article 2, Chapter 109, as they existed in the Revised Statutes of 1939, were repealed by the Act of 1943. Particular attention is called to the fact that Section 14697, R.S. Mo. 1939, was not repealed, but remains undisturbed as a part of said Article 2, Chapter 109. That Section is as follows:

"Whenever any person, partnership or corporation shall receive from any other state any of the oils, gasoline or fluids mentioned in this article that has not been inspected under the laws of this state, and inspection fees thereon paid, it shall be his or its duty to cause to be inspected the said oils or gasoline, as provided in this article, before the same is offered for sale; and shall pay the same inspection fees as is provided in this article."

In determining the question you submit as to who is the party responsible for sending samples of petroleum products to your office for inspection under said Section 14688, as amended in 1943, said Section as so amended, must be read with said Section 14697. That part of Section 14688, Laws of Missouri, 1943, page 592, to be read and applied in connection with said Section 14697, is as follows:

"All kerosene, and all gasoline or any other motor fuel, whether manufactured in this state or not, shall be inspected as provided in this article before being offered for sale or used in this state. It is hereby made the duty of every dealer, distributor, producer, or compounder of such oil or fuel, immediately upon receipt of a consignment of the same, at his own expense, to express to the State Inspector of Oils, at his principal office, a properly identified sample of not less than eight (8) ounces of such oil or fuel so received, and said inspector shall test and inspect the same: \* \* \* "

Section 14697, R.S. Mo. 1939, supra, provides that when any person, partnership or corporation receives oil or other fuel fluids mentioned, from another State, that has not been inspected and the inspection fees paid thereon, he or it

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shall cause the same to be inspected and pay the same inspection fees thereon as are provided in Article 2 before offering it for sale. Section 14695, Laws of 1943, provides the schedule of fees for the inspection of motor fuels "under this article" etc.

Section 14688, Laws of 1943, provides that all motor fuel, whether manufactured in this State or not, shall be inspected as provided by this Article, meaning Article 2, Chapter 109, R.S. Mo. 1939. This language in said Section being read with Section 14697, makes the sending of samples for inspection of all oils and motor fuels, wherever manufactured, the duty of every dealer, distributor, producer and compounder, instead of restricting their said duties to oils and fuels manufactured out of the State, as provided in Section 14697, and by providing that all oils and motor fuels shall be so inspected as is provided in this Article, Section 14688, Laws of 1943, harmonizes with the terms of Section 14697 which require all persons receiving oils, gasoline and fluids mentioned in said Article 2, to pay the inspection fee as provided in said Article before offering the same for sale. These sections read together thus show that the Legislature intended thereby to make it the duty of every dealer, or distributor, to see that the inspection of such products is made and the fees have been paid on oils received by him, and if they have not been so inspected and such fees paid, it becomes his duty to have such fuels inspected and to pay the inspection fees thereon before offering the same for sale.

#### CONCLUSION.

It is, therefore, the opinion of this Department that it is the duty of every dealer, distributor, producer or compounder of such oil or fuel, whether manufactured in this State or not, that has not been inspected and the fees paid thereon when he or it receives them, to cause the said oil and motor fuel to be inspected, and pay the inspection fees thereon as provided in Article 2, Chapter 109, R.S. Mo. 1939, and in the amendment thereof by the Act of 1943.

Respectfully submitted,

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APPROVED:

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