

AGRICULTURE:  
LICENSE FEES OF  
DAIRY PRODUCTS PLANT:

Dairy products manufacturing plant must pay an annual license fee based upon the annual butterfat purchased regardless of where the butterfat is purchased.

October 16, 1950



10/17/50

Mr. Joseph T. Stakes  
Director, Dairy Division  
Department of Agriculture  
Jefferson City, Missouri

Dear Sir:

This will acknowledge receipt of your request for an official opinion by this department upon the following question.

"Section 14114, Paragraph "b" of the Missouri Dairy Law establishes the amount that a dairy products manufacturing plant must pay for a dairy products manufacturing plant licensed based upon the volume of butterfat purchased during the calendar year.

"An opinion is requested relative to whether or not the butterfat purchased in the State of Missouri determines the fee required. \* \* \*"

Section 14114, R. S. Mo. 1939, as reenacted by Laws 1945, page 83, provides in part as follows:

"It shall be unlawful for any person to operate a dairy products manufacturing plant, or a cream station, within this state, unless licensed under the provisions of this law. Each license issued under this law must be conspicuously posted in the place of business to which it applies."

\* \* \* \* \*

"(b) Each dairy products manufacturing plant operating in this state shall apply, under oath, for and obtain a dairy products manufacturing plant license for the license year, which license shall include the right to buy milk and cream. A dairy products manufacturing plant license shall be issued upon satisfactory application to the Commissioner, accompanied by an annual

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license fee based upon the annual butterfat purchases made during the last previous twelve months ending on June 30th, as follows: For any plant purchasing less than two hundred thousand (200,000) pounds of butterfat, ten (\$10.00) dollars; for any plant purchasing two hundred thousand (200,000) pounds and less than four hundred thousand (400,000) pounds of butterfat, fifteen (\$15.00) dollars; for any plant purchasing four hundred thousand (400,000) pounds and less than six hundred thousand (600,000) pounds of butterfat, twenty (\$20.00) dollars; for any plant purchasing six hundred thousand (600,000) pounds or more of butterfat, twenty-five (\$25.00) dollars; for a new plant, the business of which has not started sufficiently to establish a volume basis, the license fee shall be ten (\$10.00) dollars. It is further provided that the Commissioner or his agent, shall have the authority to examine the buying records of any such plant for verification of the butterfat tonnage purchased at such plant, at any reasonable time that the Commissioner shall elect to make such examination. A dairy products manufacturing plant license shall not be transferrable and shall not be movable from one city or town to another city or town, but, with the consent of the Commissioner, may be moved from one location to another location in the same city or town."

Section 14106, R.S. Mo. 1939, as reenacted Laws 1945, page 83, provides as follows:

"Each person engaged in the purchase and sale of milk and cream shall keep in proper books true and full records for a period of one year after the date of purchase of all such milk or cream purchases, tests and weights thereof, the dates when bought, received and shipped, including the grades of cream stored or handled the amount paid therefor and to whom. The records shall also include the dates and sales of such milk and cream, to whom sold, and the sums received therefor. These records shall, upon request, be made available at any time during business hours for the official information of the Commissioner."

The records that the purchasers of cream and milk must keep do not provide for a record of the place where such dairy products are purchased. Said section 14114 does not provide that the amount of the license fee shall be based upon the amount of butterfat purchased within the state of Missouri. The license fee to be charged the dairy products manufacturing plant is based upon the total amount of




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butterfat purchased during the last previous twelve months ending on June 30, regardless of where the butterfat is purchased. If the dairy products plant is located and operating in this state then their annual license fee will be based upon the total amount of butterfat purchased by such plant regardless of where the butterfat was produced or purchased.

CONCLUSION

It is the conclusion of this department that the annual license fee of a dairy products manufacturing plant located and operating in this state shall be based upon the total amount of butterfat purchased during the last previous twelve months ending on June 30th, regardless of where the butterfat is produced or purchased.

Respectfully submitted,

  
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Assistant Attorney General

APPROVED:

J. E. TAYLOR  
Attorney General

  
SJM:mv