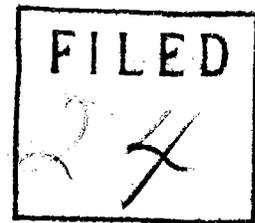


DEPARTMENT OF AGRICULTURE: Warehousemen licensed under Art. 1, Chap. 141, R.S. Mo. 1939, not subject to provisions of House Bill 164.



August 5, 1946

E/16

Honorable Tom R. Douglass
Commissioner of Agriculture
Jefferson City, Missouri

Dear Sir:

This office is in receipt of your request for our official opinion on the following question:

There are several warehousemen in the State, licensed under Article 1, Chapter 141, R. S. Mo., 1939, who also conduct a locker plant business in conjunction with their warehouse business. The insurance carried by some warehousemen is inadequate to cover the minimum of \$40.00 per locker fixed by the Commissioner of Agriculture. Does House Bill 164 apply to these warehousemen?

In your request you also refer to Section 14 of House Bill 164, recently enacted by the General Assembly, and, since an examination of that section is necessary to the determination of the question at hand, it is set out herein:

"Section 14. Every operator shall have a lien upon all property of every kind stored in the locker plant for all locker rentals, processing, handling, and other charges due from owner of such property; and the locker plant operator may enforce the lien by suit and shall have authority to prevent removal of food stored pending the outcome of suit to enforce said lien. Operators of locker plants shall not be construed to be warehousemen, nor shall receipts or other instruments issued by such persons in the operation contracts of their business be construed to be warehouse receipts or subject to the laws applicable thereto, nor

shall the provisions of this act apply to any warehouseman licensed under the provisions of Article 1, of Chapter 141 of the Revised Statutes of Missouri, 1939."
(Underscoring ours.)

We are unable to find any judicial interpretation of this or a similar enactment which is decisive, and must rest our conclusion on the plain wording of Section 14, supra.

The evident meaning of the portion of Section 14 which we have underlined above is to exclude from the operation of the entire act (House Bill 164), all warehousemen who have been licensed in accordance with Section 15477, R. S. Mo., 1939. It may be that the intent could have been to exclude warehousemen, duly licensed, from the operation of the Act unless they were also engaged in the locker business, but this seems a strained construction, and it is a primary rule of law that any interpretation which results in confusion should never be given. (State ex rel. Jamison vs. St. Louis-San Francisco Ry. Co., 300 S. W. 274.)

An examination of the various sections in Article 1, Chapter 141, R. S. Mo., 1939, reveals that the occupation of warehouseman is similar to that of an operator of a cold storage locker business. Section 15476, of Article 1, provides, in part:

"Section 15476. All warehouses or storehouses * * * wherein other property than grain is stored * * * are declared to be public warehouses."

There is provision, also, for protection to the public through a surety bond which must be executed under the provisions of Section 15478 of Article 1, Chapter 141, supra.

A "locker plant" is defined in House Bill 164 as:

" * * * a location or establishment in which space in individual lockers is rented for the storage of food."

Due to the great similarity in the two occupations, it is evident that the Legislature considered the public fully protected by the requirements already made of warehousemen, who were, in some cases, offering cold storage space to the public, and that they intended to exempt warehousemen who were duly licensed.

Honorable Tom R. Douglas - 3

CONCLUSION

In view of Section 14 of House Bill 164, it is the conclusion of this office that warehousemen who are duly licensed under article 1 of Chapter 141, R. S. No., 1939, are not subject to the provisions of said House Bill 164, commonly known as the "Locker Plant Law."

Respectfully submitted,

ROBERT L. HYDER
Assistant Attorney General

APPROVED:

J. E. TAYLOR
Attorney General

RLH:HR