

SHERIFFS:

It is the duty of the sheriff of each county to collect, after receiving an order from the clerk of the County Court so to do, any tax assessed by said County Court upon any public theatrical or minstrel performances, shows and circuses or any other public exhibits in said county.

October 18, 1950

10/18/50



Mr. W. Don Kennedy
Prosecuting Attorney of
Vernon County
Nevada, Missouri

Dear Sir:

This office is in receipt of your recent request for an official opinion. You thus state your request:

"Sec. 15448, R. S. Mo. 1939, provides that the clerk of the county court, in order to collect license taxes on shows and circuses, makes a copy of the order of the county court and delivers it to 'the constables of each township in said counties where such exhibitions are usually had.' This order has the effect of an execution, and it is the duty of the constable to collect the tax. He is liable on his bond for his failure to do so.

"In Vernon County, a county of the third class, we have no constables. It has been customary to deliver the order mentioned in the statute to the sheriff. The sheriff, however, has failed to make collection; and I am unable to see that he is required by this section to make collection, or that he is liable on his bond for failure to do so.

"Is there any statute that fills in this gap? Or one that transfers to the sheriff the duties of the constable where there are no constables? The County Court here will appreciate your opinion on this question."

Senate Revision Bill No. 1116, passed by the 65th General Assembly of Missouri, now effective, states in part:

Mr. Don W. Kennedy

"Section 1. That section 15448, Chapter 119, Revised Statutes of Missouri, 1939; also section 15451 of an Act of the Sixty-third General Assembly, found at page 1729, Laws of Missouri, 1945, approved March 7, 1946, all relating to shows, amusement halls and public buildings, be and the same are hereby repealed to the same subject, to be known as sections 316.02 and 316.04 and to read as follows:

"Section 316.02 (15448). It shall be the duty of the clerks of said courts to make out and deliver a copy of said order to the sheriff of the county. Such copy, duly certified, shall have the force and effect of an execution against the property so exhibited or persons so exhibiting, and said sheriff shall be liable on his official bond for any default or neglect in collecting the same."

It will therefore be seen that the duties imposed upon constables by Section 15448 R. S. Mo. 1939, which section is now repealed by Senate Revision Bill No. 1116, are now laid upon the sheriff by Section 316.02 of said Senate Revision Bill No. 1116 quoted above.

CONCLUSION

It is the duty of the sheriff of each county to collect, after receiving an order from the clerk of the County Court so to do, any tax assessed by said County Court upon any public theatrical or minstrel performances, shows or circuses or any other public exhibitions in said county.

Respectfully submitted,

HUGH P. WILLIAMSON
Assistant Attorney General

APPROVED:

J. E. TAYLOR
Attorney General

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