

AGRICULTURE:
EGG LAW:
RULES AND
REGULATIONS:

Review of proposed rules and regulations of the Department of Agriculture implementing House Bill No. 177 of the 68th General Assembly.



July 27, 1955

Honorable L. C. Carpenter
Commissioner, Department of Agriculture
Jefferson City, Missouri

Dear Mr. Carpenter:

By letter bearing date of July 8, 1955, you have requested this office to review certain proposed rules and regulations of your department implementing House Bill No. 177 of the 68th General Assembly.

Pursuant to your request those rules and regulations have been reviewed, and all appear to be authorized by said House Bill No. 177, except as hereinafter noted.

In proposed Regulation (1) the phrase "and any eggs that are adulterated as such term is defined pursuant to the Federal Food, Drug and Cosmetic Act" is improper. Section 196.310(j) requires the Commissioner of Agriculture to define "inedible eggs" in accordance with the specifications of the United States Department of Agriculture. The obvious intent of that subsection is to require the Commissioner to set out in detail in his rules and regulations the definition of "inedible eggs" so that the public may be able to ascertain the meaning thereof by reference to the rules and regulations without the necessity of recourse to Federal laws and regulations. It is suggested that the definition of "adulterated eggs" be set out in the regulations.

Proposed regulation (4) is invalid. Section 196.320 prohibits the sale of eggs:

"(c) Which are mislabeled by the placing or presence of any false, deceptive or misleading mark, term, statement, design, device, inscription, or any other designation, upon any eggs or upon any container or subcontainer of eggs, or upon

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the label or lining or wrapper thereof,
or upon any placard or sign used in
connection therewith, or in connection
with any bulk lot or display having
reference to eggs."

That section does not authorize the Commissioner to declare what constitutes false, deceptive or misleading labeling. Nor does subsection (a) of Section 196.320 authorize regulation (4). That section refers to the size and grade designations described by Section 196.312 and regulation (3).

The foregoing opinion, which I hereby approve, was prepared by my assistant, Mr. Paul McGhee.

Yours very truly,

John M. Dalton
Attorney General

PMcG:mw