

RESTAURANTS:
MEALS:
MEAT:
WEIGHTS AND MEASURES:

A hamburger or other meat sandwich may be considered a ready-to-eat meal, sold as a unit, and the meat therein sold for consumption elsewhere than on the premises is not required by Section 413.275 to be sold by weight.

Opinion No. 380

December 4, 1964



Mr. Don Thomason, Commissioner
Department of Agriculture
Jefferson Building
Jefferson City, Missouri

Dear Commissioner Thomason:

This is in answer to your request for an opinion of this office prompted by the following query made to your office:

"Is a hamburger sandwich or other sandwiches made of meat when sold by a regular restaurant or a drive-in restaurant to be 'taken out' a meal or is it in violation of the law? Most restaurants in the St. Louis Metropolitan area and, I am sure, in other metropolitan areas, will sell any item off their menu for carry out purposes. This is especially true at noon time when many people eat in their office. If a person goes into a restaurant and orders just a sandwich off the menu to be carried out and consumed off the premises, is the restaurant violating the law by failure to sell that sandwich by weight?"

The provision against selling certain meat products other than by weight is found in Section 413.275, RSMo. 1959, which so far as here pertinent provides:

"Except for immediate consumption on the premises where sold, or as one of several elements comprising a ready-to-eat meal sold, as a unit, for consumption elsewhere than on the premises where sold, all meat, meat products, poultry, and all sea food except shellfish, offered or exposed for sale or sold as food, shall be offered or exposed for sale and sold by weight.
* * *"

It is our opinion that a hamburger or other meat sandwich falls within the exception contained in this section. A hamburger basically is composed of a piece of ground beef placed between two halves of a bun. Also it often contains onion, pickles and other relishes designed to enhance its taste. Thus the meat is only one of several elements contained in the hamburger. Also, as every American housewife with small children knows, a hamburger, or more often several, quite often comprise an entire meal. This is not peculiar to children. Hamburgers are a common lunch of many people.

The same reasoning is also applicable to other meat sandwiches. Meat is only one of the several elements in such sandwiches. Like hamburgers, meat sandwiches are often sold for consumption elsewhere than on the premises where sold, and are accepted in our way of living as a meal in themselves.

It is our understanding that the purpose of this statute was to protect meat consumers by requiring meat sales to be made by weight rather than by another method which might be more deceiving to a prospective purchaser.

It would be unreasonable to find that the Legislature by the use of the phrase "ready-to-eat meal", did not intend to exclude hamburgers and other meat sandwiches from the requirement that the meat contained therein be sold by weight. Any other conclusion would result in a strained and unnecessary construction of the language of the statute and of its purpose.

CONCLUSION

It is the opinion of this office that a hamburger or other meat sandwich may be considered a ready-to-eat meal, sold as a unit, and the meat therein sold for consumption elsewhere than on the premises is not required by Section 413.275, RSMo to be sold by weight.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, John H. Denman.

Very truly yours,


THOMAS F. EAGLETON
Attorney General