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OFFICES OF THE
ATTORNEY GENERAL OF MISSOURI
JEFFERSON CITY

March 29, 1976

OPINION LETTER NO. 33

Honorable Bud Fendler
Representative, District 104
Room 402, State Capitol Building
Jefferson City, Missouri 65101

Dear Representative Fendler:

This letter is in response to your request for an opinion from this office as follows:

"Section 321.245 Sub-Section 2 Paragraph 4
R.S. Mo. 1969.

"This section in question, reads as follows.

Each Dispatching Center shall employ sufficient personnel to insure that no person will be required to be on duty without at least twelve hours between shifts.

"Does the language of Section 321.245 Sub-section 2 Paragraph 4 R.S. Mo. 1969, restrict Dispatchers from working with less than 12 hours between work shifts.

"The question arises when a dispatcher volunteers to work in the place of a Dispatcher who is on Vacation or Sick leave.

"We work on a 40 hour work week, 8 hours daily, with rotating shifts.

"Before a Dispatcher goes on Vacation, a list of the days available for overtime is posted,

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this is then picked by Dispatchers on a Voluntary basis, with the Dispatcher with the lowest amount of overtime having first choice of the days listed. Should a Dispatcher choose not to work, it then goes to the next Dispatcher with the next lowest amount of overtime and so on. They may choose the overtime to fall on one of their days off or to work an extra 8 hours on the day of their choice.

"This has been the way we have worked overtime since the Dispatching Center was formed in 1968."

Section 321.245, subdivision 4, to which you refer, provides as follows:

"Each dispatching center shall employ sufficient personnel to insure that no person will be required to be on duty without at least twelve hours between shifts."

The above-statutory provision provides that sufficient personnel be employed to insure that no person will be required to be on duty without at least twelve hours between shifts. It does not prohibit a person from voluntarily working without twelve hours between shifts if the board of directors of the fire protection district authorizes such employment. This is a matter for the board of directors to determine.

Yours very truly,



JOHN C. DANFORTH
Attorney General