

Attorney General of Missouri

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October 12, 1978

OPINION LETTER NO. 105

Honorable Ronald L. Boggs
Prosecuting Attorney
St. Charles County
200 North Second Street
St. Charles, Missouri 63301

Dear Mr. Boggs:

This is in response to your request for a legal opinion on the following question:

"Is a sanitarian employed by the County of St. Charles, a second class county, an agent of the State Director of Health and capable of making restaurant inspections within the County of St. Charles as such agent, his salary being partially reimbursed by state funds?"

We understand your question to demand an interpretation of the following statute which in material part states:

"The director of the division of health and his assistants or agents by him appointed, the state, county, city and town health officers shall have full power at any time to enter and inspect every building, room, basement or cellar, occupied or used, . . . for sale . . . of food . . ." §196.230, RSMo.

Honorable Ronald L. Boggs

The Missouri Division of Health has for a great number of years entered into annual financial aid agreements with local health departments throughout the state. The Division uses federal and state funds appropriated to it for these purposes to reimburse the local department for a varying percentage of their personnel costs. One of the conditions of this financial assistance is as follows:

"That the Local Health Unit shall accept responsibility for the discharge of State Public Health Programs as assigned to the Local Unit in keeping with the adequacy of their personnel and in conformity with the procedural manual of the Division of Health."

Through these agreements the Division of Health in effect pays for part time services of local health department employees for the undertaking of certain state public health programs.

However we do not believe that county health department personnel whose ultimate salary is partially borne by the state in this manner and who pursuant to the state-county agreement enforce and otherwise carry out certain state health laws and regulations are thereby, and without more, agents of the state director of health for purposes of §196.230, RSMo.

Very truly yours,



JOHN ASHCROFT
Attorney General