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COLD STORAGE LOCKER PLANTS — SUBJECT TO PROVISIONS SECTIONS 1155-1 TO 1155-19 GENERAL CODE — RENTED OR LEASED LOCKERS TO CONSUMERS — STORAGE OF FOOD — SUCH PLANT NOT REQUIRED TO COMPLY WITH PROVISIONS SECTION 1155-9, 1155-10, 1155-11 GENERAL CODE.

SYLLABUS:

A cold storage locker plant which rents or leases lockers to consumers for the storage of food is subject to the provisions of the cold storage warehouse law, Sections 1155-1 to 1155-19, inclusive, General Code, except that such plant is not required to comply with Sections 1155-9, 1155-10 and 1155-11, General Code.

Columbus, Ohio, December 19, 1941.

Hon. William L. Coleman, Prosecuting Attorney,
Marysville, Ohio.

Dear Sir:

This will acknowledge receipt of your request for my opinion as follows:

“Our office would greatly appreciate an opinion for the construction of General Code, Sections 1155-2, 1155-7, and others, relative to cold storage warehouses. This specific request pertains only to the locker system which is now being used for food preservation, in a locker rented or leased to a consumer, which food is for the use of the renter or the consumer and in no case for sale. In other words the question evolves itself into one of whether a distinction should be made in locker systems used for the preservation of food for sale and those rented to the public and used purely for preservation of food for home consumption.”

Section 1155-7, General Code, provides:

“No person, firm, or corporation shall operate a cold storage warehouse without a license issued by the director of agriculture of Ohio. Such license shall be issued only on written application stating the location of such warehouse. Upon receipt of the

application the director of agriculture shall cause an examination to be made into the sanitary conditions of such warehouse. If it be found to be in a sanitary condition and properly equipped for the purpose of cold storage, the director of agriculture shall cause a license to be issued authorizing the applicant to operate a cold storage warehouse. No license shall be issued until the applicant therefor shall have paid to the director of agriculture the sum of fifty dollars. Such license shall be issued and shall run for one year, and shall be thereafter renewed annually upon the same conditions and payment. A license shall be required for each separate warehouse building within the state."

By virtue of the foregoing section every cold storage warehouse must be licensed. The term "cold storage warehouse" is defined in Section 1155-2, General Code, as follows:

"The term 'cold storage warehouse,' as used in this act, shall mean a place artificially cooled by the employment of refrigerating machinery or ice or other means, in which articles of food are stored, for thirty days or more, at a temperature of forty degrees Fahrenheit, or lower."

It will be noted that every place which is artificially cooled and in which articles of food are stored, for thirty days or more, at a maximum temperature of forty degrees Fahrenheit, must be licensed. There are no exceptions or exemptions contained in the foregoing sections. The only exceptions are contained in Section 1155-16, General Code, none of which are material to the situation here considered. It is clear, therefore, that a cold storage locker plant falls within the provisions of such law.

Section 1155-11, General Code, provides:

"All food shall at the time it is deposited in any cold storage warehouse bear the date of such deposit plainly stamped thereon. Such food shall also bear a stamp indicating the date of removal. The marking of food as provided in this section shall be under such further regulations as may be prescribed by the director of agriculture. The provisions of this section and of sections 1155-9 and 1155-10 of the General Code shall not be construed to apply to any food placed in a locker rented or leased by a consumer, which food is for the use of such consumer and not for sale."

Section 1155-9, General Code, requires that the operator of a cold storage warehouse keep an accurate record of the receipts and withdrawals of food therefrom. Section 1155-10, General Code, makes it unlawful to place in a cold storage warehouse, to keep therein, or to sell, offer or expose for sale any unwholesome food.

It is obvious from the foregoing that a cold storage locker plant is exempted from the requirements of Sections 1155-9, 1155-10 and 1155-11, General Code. Therefore, such a plant, since it is a "cold storage warehouse" as that term is defined in Section 1155-2, General Code, is subject to the provisions of the cold storage warehouse law, except as above noted.

Therefore, in specific answer to your inquiry, I am of the opinion that a cold storage locker plant which rents or leases lockers to consumers for the storage of food is subject to the provisions of the cold storage warehouse law, Sections 1155-1 to 1155-19, inclusive, General Code, except that such plant is not required to comply with Sections 1155-9, 1155-10 and 1155-11, General Code.

Respectfully,

THOMAS J. HERBERT,

Attorney General.