

OPINION
68-1

December 5, 1968 (OPINION)

Mr. Arne Dahl
Commissioner
Department of Agriculture

RE: Agriculture - Beekeepers - Corporate Farming

This is in reply to your letter of 27 November 1968 with regard to the beekeeping business.

You ask whether a beekeeper may incorporate his business and when incorporated whether the business would be in violation of the Corporate Farming Act.

Chapter 10-06 of the North Dakota Century Code, The Corporate Farming law of this state, does provide in section 10-06-01 that:

"All corporations, both domestic and foreign, except as otherwise provided in this chapter, are hereby prohibited from engaging in the business of farming or agriculture."

Its enforcement provisions relate basically to disposal of the lands it holds for such farming or agriculture. The applicability of such provisions to an occupation such as beekeeping, where only the hive site is used exclusively for this activity, seems extremely questionable.

Beekeeping, as such, can be considered an agricultural pursuit. We note for example the statement in 58 Am. Jur., 647, Workmen's Compensation, section 97:

"* * *The expression 'agriculture' has been construed as including horticulture, forestry, and the use of land for any purpose of husbandry, inclusive of the keeping or breeding of livestock, poultry, or bees, and the growing of fruits and vegetables.* * *"

We find that our Supreme Court has also defined the term "agriculture", though not specifically with regard to beekeeping or the corporate farming law in this respect.

Thus we are informed in *Lowe v. North Dakota Workmen's Compensation Bureau*, 66 N.D. 246, 264 N.W. 837, 838, 107 A.L.R. 973:

"One may be employed in 'agriculture' and yet not be a 'farmer' in the ordinary sense of the term, nor even a 'farm laborer' as the term is used in the lien laws. They are not synonymous terms. The term 'agriculture' is broader than either of the others."

In *Unemployment Compensation Division of Workmen's Compensation Bureau v. Walker's Greenhouses*, 70 N.D. 515, 296 N.W. 143, 144 and 145, we are informed:

"'Agriculture' is defined as: The art or science of cultivating the ground, and raising and harvesting crops, often including also feeding, breeding, and management of livestock; tillage; husbandry; farming, in a broader sense, the science and art of the production of plants and animals useful to man, including to a variable extent the preparation of these products for man's use and their disposal by marketing or otherwise. In this broad sense it includes farming, horticulture, forestry, dairying, sugar making, etc."

"'Agriculture', in the usual and commonly accepted sense of the term does not include the operation of commercial greenhouses; nor is an employee in charge thereof an agricultural worker."

We note that this office, in regard to the corporate farming law, has ruled that in particular circumstances same would not apply to a so-called feed lot (see opinion of date May 17, 1960, to Securities Commissioner and opinion of date October 19, 1962, to the Secretary of State) or to a turkey-raising project (see letter of date August 13, 1960, to Mr. Wallace E. Warner). We note also in this regard an opinion of this office to the effect that a "nursery" is not entitled to a "farm" tax exemption (see opinion of date 7 March 1962 to the Commissioner of Agriculture). We note also in this regard an opinion to the Motor Vehicle Registrar that a beekeeper in the particular circumstances there considered was not entitled to a farm ton fee tax exemption. We note also in this regard a ruling of the State Tax Commissioner contained in the Assessment Manual for Assessors and Boards of Equalization to the effect that: "Buildings and improvements used in connection with the business of keeping bees taxable because beekeeping is not considered to be farming."

We do recognize that a farmer as a part of his general operations such as raising grain, livestock, etc., might also keep bees. However, in our opinion the keeping of bees as a separate business would not be considered farming or agriculture within the prohibition of the Corporate Farming Act. On such basis a strictly beekeeping business could be incorporated and as so incorporated would not be in violation of the Corporate Farming Act. We are not suggesting, of course, that a corporation could be formed to keep bees and incidentally farm the land where the bees flyways are located.

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