

**Opinion No. 120.****Livestock Sanitary Board—Dairy Defined—License.**

HELD: Producers of milk who sell on own premises to customers who bring their own containers are required to have dairy license.

August 17, 1939.

Dr. W. J. Butler  
State Veterinary Surgeon  
The Capitol

Dear Dr. Butler:

You have submitted for my opinion the following:

“Are producers of milk who sell that milk on their own premise to customers who bring their own containers with them required to take out a dairy license as issued by the Montana Livestock Sanitary Board?”

Section 3282, R. C. M., 1935, provides for the licensing of milk plants and dairies selling milk or cream for public consumption, and as far as pertinent to this question, reads as follows:

“It shall be unlawful for the following classes of business to operate in the State of Montana without first securing a license from the livestock sanitary board, to-wit:

“1. All dairies selling milk or cream for public consumption in the form in which it is originally produced and without having been converted into some manufactured product.”

The purpose of this Act is to protect the consumers against unsanitary conditions in which the livestock may be kept. This board has power to enforce sanitary regulations in order that the public using dairy products may be

protected against infectious contagious, communicable or dangerous diseases which so often accompany milk and cream.

A dairy is defined as a department of farming, concerned with production of milk, butter and cheese. (Associated Industrial Corporation v. Wilson (Tex.) 21 S. W. (2) 314, 317:)

Any farm, farmhouse, cow shed, milk store, milk shop, or other place from which milk is supplied has been construed as a dairy. (Wharton Law Lexicon.)

It is my opinion that such a producer as is set up in your opinion comes within the definition of “dairyman,” and should take out a dairy license as issued by the Montana Livestock Sanitary Board.