

**Livestock, Inspection of. Shipment of Livestock, Inspector's Fees. Inspector of Livestock, Fees of. Fees, for Inspection of livestock.**

Stock Inspectors, and Deputy Sheriffs acting as such may collect and charge the person for whom the inspection of horses is made \$3.00 per day while engaged in such inspection, together with actual expenses of such officer, when such animals are offered for shipment to points outside the state of Montana. Stock Inspectors, and Sheriffs acting as such are entitled to be compensated for the actual expenses incurred in making such inspection, when engaged in the inspection of cattle offered for shipment, but are not entitled to mileage or per diem.

Helena, Montana, May 6, 1909.

Dr. M. E. Knowles,  
State Veterinarian,  
Helena, Montana.

Dear Sir:

I am in receipt of your letter of May 1, 1909, wherein you submit

for official opinion of this office the question as to whether or not stock inspectors and sheriffs are entitled to inspection fees for inspecting cattle and horses offered for shipment to railroad companies in this state.

Certain provisions of our code provide for the inspection of cattle and horses before shipment, both for the purpose of preventing the shipment of diseased stock, and for the purpose of protecting the owners of stock shipped, by making a record of the marks and brands thereon.

Section 1804 provides that all persons removing any horse, mule, mare, colt, foal or filly from this state shall cause the same to be inspected by a stock inspector or the sheriff of the county. Section 1805 provides for the method of inspecting stock mentioned in Section 1804, and Section 1806 imposes a penalty for a violation of the two sections preceding upon the railroad company. Section 1807 fixes the fee for the service of inspection, when the inspection is made upon animals named in Section 1804. Section 1808 provides for the inspection of horses, etc., when moved from one county to another within this state, but does not provide any fee therefor. Section 1812 provides for the inspection of cattle, which are described as "any cow, ox, bull, stag, heifer, steer, or calf." The same chapter, in the two succeeding sections of the revised codes, fixes the duties of the stock inspector, and provides a penalty for the violation of the act (which was approved February 7, 1907), but does not provide for the payment of any fee, either by the shipper or any other person.

You are therefore advised that stock inspectors, sheriffs and their deputies, may charge and collect from the person for whom inspection is made, \$3.00 per day while engaged in the inspection, and in addition thereto the actual necessary expense incurred by such officer when engaged in the inspection of horses and other animals named in Section 1804 which are offered to the transportation companies for shipment to points outside the state of Montana.

The law is silent as to the amount and manner of collecting fees for the inspection of cattle offered for shipment, and therefore we are of the opinion that no per diem charge or fee can be collected by either the stock inspector or the sheriff. This is an additional duty imposed upon such officers by law, and they must perform such duty without compensation additional to the salary allowed them by law as such officers. However, it being a police regulation prescribed by state law intended generally to protect the cattle industry, the officer cannot be expected to be out money for expenses, thus reducing his salary, and you are advised that the claim of the sheriff or inspector for his actual expenses incurred in making the inspections, in manner as prescribed by law, is a proper charge against the State of Montana, and should be paid from the stock inspection and indemnity fund.

I return herewith Mr. Wallace's letter, addressed to Mr. W. H.

Merriman, which you transmitted to me with your request for an opinion.

Yours very truly,

ALBERT J. GALEN,

Attorney General.

(See opinion given to Hon. S. P. Wilson on July 7, 1909, which modifies the foregoing)