

State Veterinarian, Fees Of. Fees, of State Veterinarian and Deputies. State Veterinarian, Right to Charge for Testing Animals.

The state veterinarian and his deputies may charge for services rendered by him which they are not required to perform by statute but the performance of such services must not interfere with the efficiency of the officer in performing the duties required of him by law.

January 23, 1912.

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

Dear Sir:

I am in receipt of your letter of January 3rd, requesting my official opinion upon the following question:

"Is it legal for me or my deputies to collect fees and appropriate the same to our own use, in making health inspections on animals being shipped out of this state into other states and territories?"

In explaining the circumstances under which this question is raised you state that the Dominion of Canada, and a number of states of the Union, require the tuberculin testing of cattle and the mallein testing of horses before being shipped from this state, and that such inspection must be made by a state, deputy state, or federal veterinarian; that the tuberculin and mallein used for such test is furnished by the United States Bureau of Animal Industry, and that it has been the custom of your deputies to make such inspections and to charge a reasonable fee therefor, which is retained for such services.

In reply I will say that I know of no law of this state which requires the tuberculin or mallein testing of all animals before being shipped from this state. You or your deputies are only required to perform such services as are imposed upon you by statute, but whenever any duty is imposed upon you by law you should perform it without charge, unless a fee is prescribed by statute, as you are acting as a state officer, and whenever a fee is so prescribed you should account to the State of Montana therefor. If you or your deputy should inspect an animal before shipment from this state under a law of some other state or country requiring such inspection to be made before such animal may be shipped, and you are not required by the laws of this state to do so, you are at liberty to charge a fee for the same and such fee does not belong to the State of Montana, provided such work does not interfere with the performance of your duty as a state officer, or your efficiency in the performance of the duty required of you by law. You will understand and appreciate, I hope, that the first duty devolving upon yourself and deputies is the performance of the service to the state of Montana required by law, and you will not permit outside work to in any way interfere with your efficiency in the performance of your duties as officers of this state.

In brief, you should not permit outside work to in any way interfere with the performance of any duty imposed upon you by the laws of this state, but whenever any inspection is made by you in your individual professional capacity which is not required of you by statute, and which you have the time to perform without impairing your efficiency as a state officer, you are at liberty to do so and the fee you may receive for such service does not belong to the State of Montana, and you would not be required to account for it.

Yours very truly,

ALBERT J. GALEN;

Attorney General.