

Common Carriers. Transportation of Sheep. Interstate Shipments. Duty of Carrier to Notify State Veterinarian. Duty of Carrier to Hold Interstate Shipments of Sheep Until Inspected. Sheep. Inspection.

It is the duty of common carriers to notify the state veterinarian of shipments of sheep into this state. Sec. 1 of Chap. 123, Session Laws, Thirteenth Legislative Assembly, makes it the duty of the state veterinarian to inspect all sheep imported into this state, when held for a longer time than necessary to feed them in transit: Held, that it is the duty of the carrier to hold shipments of sheep consigned to points within the state until opportunity is given state veterinarian to inspect same.

September 8th, 1913.

Dr. W. J. Butler,
State Veterinary Surgeon,
Helena, Montana.

Dear Sir:

I am in receipt of your letter of the 6th instant, as follows:

"I request an opinion from your office as to whether or not transportation and express companies are required to notify this office of shipments of sheep into this state.

"I also request an opinion as to whether or not railroad and express companies must hold interstate shipments of sheep at their railroad destination in Montana until they have been released by an inspector of the sheep commission of Montana."

Complying with your request, I have given careful consideration to the propositions propounded by you. As to the first, I am of the opinion that the law makes it the positive duty of carriers to notify your office of shipments of sheep into this state. Secs. 1868 and 1870, R. C.

As to the second proposition contained in your communication, you are advised that there is no statutory enactment of which I am aware which requires carriers to hold interstate shipments of sheep at their railroad destination in Montana until they have been released by the inspector of the sheep commission of Montana. However, Sec. 1 of Chap. 123, Session Laws of the Thirteenth Legislative Assembly, makes it the duty of your office to inspect and dip all sheep imported into this state when held for a longer time than necessary to feed them in transit with the proviso that when it appears that such sheep so imported into the state have been inspected by a federal inspector and found to be free from disease, etc., that such sheep may be taken to the range where they are to be kept without being dipped, but they must nevertheless be inspected by your department before being so taken, and in the case of rams special requirements as to dipping at or as near the point of entry

into the state as practical is provided for. It is also provided generally that your office may require any sheep shipped or driven into the state dipped and quarantined. Sec. 1868, R. C., provides in part that when any sheep are delivered to any railroad or transportation company for shipment to this state as the point of destination, it shall be the duty of such company to notify your office by telegraph of the date of shipment, name of the place from which they are to be shipped, the point of destination, the name of the consignor and consignee, and the probable date of arrival of said shipment at the state line of Montana, and Sec. 1871 provides in part that within five days previous to the arrival of any sheep into the state from another state or territory, the owner or agent in charge of such sheep must report by telegraphic dispatch to your office, stating from what country, state or territory such sheep are shipped or being driven from, the number thereof and the place where they will first enter the state, and where it is intended to unload them. Proviso is made that if such notice may be received by your office in time, it may be given by registered mail. While there is no positive direction to the carrier to hold such sheep until inspected and released by your office, the law certainly contemplates notice to your office of opportunity to inspect and to dip when necessary, and I think it to be the duty of the carrier in every instance to give your office ample and sufficient opportunity to carry out the mandates of law, and in no instances to release or deliver over to the consignee any sheep until such opportunity has been afforded your office. Your attention is directed to Sec. 1877 of the Revised Codes, which provides in part that:

"Any person * * * who violates or disregards any of the provisions of this act, or who shall in any manner hinder, obstruct or resist the state veterinary surgeon or any inspector in the discharge of his or their duties * * * shall be deemed guilty," etc.

It would appear to me from the provisions of this section that if a carrier who brings sheep within this state fails to hold them for a sufficient length of time to enable your office to perform its full duty under the law, that such carrier would be chargeable as for a misdemeanor for disregarding the provisions of the act, and might also be chargeable with hindering, obstructing or resisting your office.

Accompanying your request for an opinion upon these matters, I find a communication from the Northern Express Company, with whom you had some correspondence relative to a recent shipment of sheep into the state, and in regard to which you charged this company with a violation of the law. In the communication referred to this company seems desirous of co-operating with your office and offers to publish instructions to its agents regarding the shipment of sheep into this state, in conformity with law and the orders of your department. Since in many instances agents or carriers are manifestly ignorant of the provisions of the law upon the subject,

I believe that it would be well for your office to accept the offer of this company to publish and distribute to its agents such instructions as you may deem pertinent to the subject under consideration, to the end that future misunderstandings may be avoided.

Yours very truly,

D. M. KELLY,
Attorney General.