

**Livestock—Estrays—Tally Lists.**

Section 3341, R. C. M. 1921, as amended by chapter 29, laws of 1923, construed to require the shipper of cattle to furnish a tally list when shipping to a point outside of the state where this state maintains inspectors, whether shipping his own cattle or estrays, or both.

E. A. Phillips, Esq.,  
Secretary, Livestock Commission,  
Helena, Montana.

December 12, 1924.

My dear Mr. Phillips:

Your letter was received requesting my opinion whether section 3341, R. C. M. 1921, as amended by chapter 29, laws of 1923, applies to all shipments of cattle to the points designated, or whether it relates only to shipments of cattle containing estrays.

Section 3341, as amended, provides:

“Every person, \* \* \* who shall ship cattle from this state to any market where Montana livestock inspectors are maintained, may ship with their own cattle any estrays which may be among them, but they shall, before shipment, or at the time of loading same on the cars for shipment, carefully and as accurately as possible inspect or tally the brand on such cattle, whether their own or estrays, \* \* \*”

It then provides that the railroad agent shall require from the shipper tallies referred to in the section and to forward within twenty-four hours, a copy to the livestock commission at Helena, and another copy to the Montana brand inspector at the point of destination.

Section 3343 provides that the stock inspector at the point outside of the state shall be commissioned and given power and authority to inspect any or all cattle that may come from this state to the market where he is located and to seize any stock which he may have reason to believe is stolen, or upon which brands have been altered or obliterated, and it is also provided that he shall, upon receipt of the certified lists mentioned in section 3341 inspect the cattle so listed and if upon a comparison of such list with his own inspection he finds any discrepancy he shall make a second inspection and make a report to the livestock commission pointing out in detail wherein the discrepancies exist, and section 3345, in prescribing the penalty, provides:

“Any person \* \* \* who shall ship cattle from this state, and shall fail to make such inspection or tally at point of loading, or who shall fail to file a true and correct tally, to the best of their knowledge and belief, of all the brands of cattle in such shipment with the railroad agent at the point of shipment, or who shall fail to forward a true and correct copy, duly signed by them as parties making the shipment, to the stock inspector at point of destination, \* \* \* shall be deemed guilty of a misdemeanor.”

The purpose of these sections of the statute was to prevent the theft of cattle. While the statute is not clear upon the particular question submitted by you, upon a reading of the entire chapter in which section 3341 appears, it seems apparent that the legislature intended that anyone shipping cattle to a point outside of the state where the state maintains livestock inspectors must comply with the provisions of this section, whether shipping their own cattle or estrays, or both.

It is, therefore, my opinion that section 3341, as amended by chapter 29, laws of 1923, requires the shipper of cattle to furnish the tally therein referred to when shipping to a market where this state maintains inspectors and whether the cattle belong to the shipper or whether they be estrays, or both.

Very truly yours,

L. A. FOOT,  
Attorney General.