

### **Live Stock—Cattle—Shipment—Inspection.**

No inspection of cattle is necessary in this state when they are shipped by railroad and consigned to a definite point outside of the state where the commission maintains a stock inspector.

Cattle shipped outside the state by trucks must be inspected prior to their removal from the state.

Mr. Paul Raftery,  
Secretary, Live Stock Commission,  
Helena, Montana.

March 28, 1932.

My dear Mr. Raftery:

You have requested an opinion whether the live stock commission is authorized to issue an order requiring brand inspection of cattle shipped to market out of the state by truck or in any other way than by railroad.

Code section 3321 provides:

"It shall be the duty of any and all persons removing or taking from this state in any manner whatsoever, any cow, ox, bull, stag, heifer, steer, or calf, immediately before the shipment of same, or its removal, and at the time and place from which said shipment is to be made, to cause the same to be inspected by a stock inspector of the state as hereinafter provided; provided, however, that whenever any of the class of stock aforementioned shall be loaded for shipment and consigned to any point where the state board of stock commissioners maintains a stock inspector then and in such event only such shipments so consigned need not be inspected in this state before shipment."

The above statute is plain that inspection is required when any of the class of animals mentioned therein are taken or removed from this state "in any manner whatsoever," except when the removal is by shipment and the stock is consigned to a definite point outside of the state where the commission maintains a stock inspector.

In my opinion, the removal in order to come within the exceptions dispensing with the necessity of inspection must be by means of a railroad.

The two following sections clearly indicate this for it is provided that no railroad company can ship, or permit to be shipped, any of the animals mentioned unless there is filed with the railroad a certificate of inspection in those cases where inspection is required before they are taken or removed from the state.

Where the animals are delivered to a railroad company for transportation to a point outside of the state where the commission maintains an inspector no such certificate is necessary.

Section 3341, R.C.M. 1921, as amended by chapter 29, laws of 1923, also requires each person shipping cattle to furnish the railroad with duplicate tallies describing the animals shipped, when shipment is made to points outside of the state where an inspector is maintained, and the railroad company must forward one copy to the inspector at the point of destination.

The reason for not requiring the certificate of inspection but in its stead the tally sheet containing a description of the animals in such a case is that the railroad company knows at what points the commission maintains an inspector and the consignment of the animals to one of those points and the furnishing of the tally sheet to the inspector at that place guards against the animals being removed from the state without any inspection for the inspector at the point of destination will know of their shipment and inspect them upon their arrival.

In my opinion, loading the animals on trucks and transporting them either to an unknown destination outside of the state or to a fixed destination where an inspector is maintained is not such a shipment as comes within the exception doing away with the necessity of inspection at the time the animals are loaded but that animals so transported by truck to points outside of the state must be inspected before their removal from the state.

The only shipment that the legislature had in mind coming within the exception doing away with the necessity of inspection within the state is one where the animals are delivered to a railroad for transportation to a definite point outside of the state and the animals are consigned to that point so that the inspector there will be advised of their shipment by the tally sheet forwarded by the railroad company to him.

It is obvious that if animals may be loaded on trucks and be transported out of the state to either an unknown destination or a definite destination where there is a livestock inspector the animals could in any case escape inspection altogether either by disposing of them before their arrival at a point where the commission maintains an inspector or by diverting them to some other point where no inspector is maintained or by failing to make known to the inspector their arrival at his station.

Such escapement was what the statute intended to guard against and for that reason it requires inspection in all cases before the stock is removed from the state, with the single exception when they are shipped by railroad and consigned to a definite point where an inspector is maintained.

Very truly yours,  
L. A. FOOT,  
Attorney General.