

Opinion No. 389**Butchers—Meat Peddlers—Licenses.**

HELD: A merchant who sells meat purchased from packing houses or from another meat market, and who does not actually slaughter or cause to be slaughtered, meat cattle is neither a butcher nor a meat peddler.

A merchant who buys and slaughters his own cattle to supply beef to sell at his store must obtain butcher's license if he sells the equivalent of more than 25 carcasses, beef and/or veal, in any one year.

November 15, 1933

You have submitted the following facts and ask my opinion thereon. "There are two particular instances we have in mind. The first is a merchant who sells groceries and all sort of food stuffs. He also sells beef but I do not know that he butchers any beef. All he sells are meats that he either purchased through a packing house or through another meat market, and I am wondering if this person should come within this license law. The second instance is a similar situation. The merchant conducts somewhat of a general store, selling everything including meats. This merchant, however, kills cattle and sells them through his store, but in his instance he butchers usually his own cattle. He has a large amount of cattle and while he is trading in his own stock, that is with his own cattle, killing and selling, he claims that he is not buying cattle for butchering; that when he buys cattle they are bought and placed on his ranch and whenever he needs beef for his store he generally goes to his ranch and picks out the beef. I doubt if he sells more than 25 beeves in a year; either beeves or veals."

Relative to the first question it is my opinion that the merchant described therein is neither a butcher nor a meat peddler within the meaning of Section 1, Chapter 172, Laws of 1931. In order to be classed as either a butcher or meat peddler as defined in said section it is necessary that such person slaughter, or cause to be slaughtered, meat cattle. In addition to this requirement a meat peddler is one who does not maintain either a licensed slaughter house or a market.

Answering the second question, it is my opinion that the merchant described therein should be classed as a butcher as he comes within the definition of said section 1, unless he comes within the exemption of the second paragraph of section 2. Whether he comes within this section is a question of fact. See Opinion No. 11, this volume.