

"No person or persons shall, without the consent of the owner or owners, use, sell, dispose of, or traffic in any milk cans, jars, bottles, milk or cream receptacles belonging to any dealer or shipper of milk or cream, having the name or initials of the owner on such cans, jars, bottles or other receptacles. No person shall wilfully mark, change or erase the names or initials stamped or fastened upon milk or cream receptacles and shall not place any other substance but milk or cream, or their products, in them."

"It is a practice of many distributors of milk to charge for the bottle in addition to the cost of the milk, when milk is purchased at a retail store. When the customer returns the bottle the money paid for the bottle is refunded.

"Where a purchaser of milk or cream pays for the bottle in addition to the cost of the milk or cream by depositing a certain sum, which is refunded when the bottle is returned, is that purchaser liable to the provisions contained in Paragraph 10, Section 2 of Regulation 1, which I have quoted?"

"If the milk container is not purchased and if no sum is deposited with the distributor for the bottle, is the user of a bottle stamped with the name of the dairy or owner of the dairy, liable to that dairy, provided the bottle is used to contain milk or cream other than that purchased by the owner of the bottle?"

Answering your first question, it is my opinion that the first sentence of the rule and regulation quoted is not and was not intended as an injunction against the retail purchaser. In most instances the purchaser either does not know whose bottle the seller is using or selling or assumes that the seller is using or selling his own milk bottle. This rule was no doubt primarily intended to prevent fraud upon the purchasers who generally are the innocent parties.

Answering the second question, the second sentence of the rule and regulation quoted, was intended as a sanitary rule and regulation to prevent milk or cream from being contaminated by using milk bottles for foreign substances. Any person using

Opinion No. 316.

**Montana Livestock Sanitary Board—
Rules and Regulations—Milk
Bottles, Use Of.**

HELD: Rules and regulations relating to property rights, resale and use of milk bottles are discussed.

July 7, 1936.

Dr. W. J. Butler
State Veterinary Surgeon
The Capitol

You have submitted the following:

"Under the rules and regulations of the Montana Livestock Sanitary Board, Regulation 1, Section 2, Paragraph 10, provides:

bottles for any other substance but milk or cream or other products would be liable in such manner as the rules and regulations provide. (See: Opinion No. 86, Vol. 16.) Moreover, if the purchaser did not acquire title to the bottle and it remains the property of the seller or distributor, he would be liable in damages to the owner thereof for any unlawful conversion of the property. (See Section 8689, R. C. M. 1935.)