

poisoning animals or killing, maiming or poisoning livestock, as defined by Sections 11512 and 11515.

February 7, 1938.

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

Dear Dr. Butler:

You have asked whether a person may be prosecuted criminally for poisoning livestock where the evidence shows that the poison bait was put out in a careless or negligent manner but there is no evidence of wilfully administering poison, or maliciously exposing poisonous substances.

The question must be answered in the negative. In Section 11512, as well as Section 11515, R. C. M. 1935, either "wilfully administering" or "maliciously exposing" is made an element of the criminal offense, as defined by these statutes. Of course, either element may be proved by direct or circumstantial evidence. In a civil action for damages it is sufficient to prove negligence.

Opinion No. 244.

**Crimes—Livestock—Poisoning
Animals.**

HELD: Either wilfully administering or maliciously exposing poisons are necessary elements in the crime of