

cattle and horses shipped from one county to another to be inspected for brands at point of loading unless such stock shall be loaded for shipment with any railroad company and consigned to a point where this department maintains a stock inspector such as the markets at Billings and Great Falls. This chapter requires that the fee for inspection be paid by the person for whom the inspection is made.

"In the case of stock shipped to the markets at Billings and Great Falls, they are sold at auction to as many different purchasers as may be interested in them and after their sale they have become mixed with other cattle sold through the market and are shipped out of the markets at Billings and Great Falls to other points within the state and also to points outside the state. For this reason it is necessary that our inspector in Billings re-inspect these cattle after they have been sold in order that the persons purchasing them may have a clear claim of title in the event the stock so purchased is resold by them at Billings or Great Falls, or at market points outside the state where we have inspectors.

"Chapter 85, Laws of 1939, and 136, Laws of 1937, as amended by Chapter 87, Laws of 1939, require the inspection of horses and cattle before shipment and provide the collection of an inspection fee. The question has been raised as to whether or not the Livestock Commission through its inspectors at markets located within the State of Montana are authorized by these laws to charge an inspection fee for making the second inspection of stock sold at these markets. This inspection is necessary and I wish you would give me your opinion as to whether or not a fee might be charged."

Opinion No. 55.

Livestock—Inspection—Removal From County—Removal From State—Stock Previously Inspected.

HELD: It is the duty of the stock inspectors to inspect livestock and all persons shipping the same to pay the fee therefor where livestock is shipped from one county to another or out of the state, although such livestock may have been previously inspected on account of prior shipment to livestock markets in the state.

April 24, 1939.

Mr. Paul Raftery
Secretary, Livestock Commission
The Capitol

Dear Mr. Raftery:

You have submitted the following:

"Under the provisions of Chapter 85, Laws of 1939, it is necessary for

In the event that the stock sold through the market at Billings or Great Falls, is moved out of the county, Chapter 85, Laws of 1939, amending Section 3324, requires that such livestock be inspected before removal from the county, unless it comes within the proviso of said section. This section provides that it shall be the duty of the persons, associations or corpora-

tions removing or taking livestock from one county to another to cause the same to be inspected at the point of loading. Sections 3326.1, as amended by Chapter 133, Laws of 1937, provides that the inspection fee shall be paid by the person for whom the inspection is made, that is, the person removing or taking such livestock from one county to another. On such facts it is my opinion that an inspection should be made and an inspection fee may be charged.

In case such livestock is removed from the state, Chapter 136, Laws of 1937, would apply. Section 3321, as amended by this chapter, makes it the duty of all persons removing or taking from the state such livestock to cause the same to be inspected. Section 3 of said chapter, known as Section 3322.1, fixes the fee the officer making such inspection may charge therefor.

We do not think it makes any difference that the stock has been previously inspected for someone else on account of a prior shipment. The statute does not make any exception for such cases. The statute requires inspection whenever stock is shipped from one county to another, or out of the state, with certain exceptions, and it is the duty of the stock inspector to inspect such stock and of the shipper to pay the inspection fee. Furthermore, it would appear that such inspection is necessary in order to protect the livestock interests in the state.