

No. 510

**LIVESTOCK—LIVESTOCK COMMISSION—INSPEC-
TION OF LIVESTOCK—BRANDS ON LIVESTOCK, In-
spection of**

Held: Livestock taken by truck from the owner's ranch in one county to some point in another county must be inspected for brands at the point of loading, as provided in Section 3324, Revised Codes of Montana, 1935, as amended by Chapter 106, Laws of 1941.

November 17, 1942.

Mr. Fred C. Gabriel
County Attorney
Phillips County
Malta, Montana

Dear Mr. Gabriel:

You have asked this question:

John Doe trucked a cow from his ranch in Phillips County to Havre, Montana, where the livestock commission maintains an inspector. Under the provisions of Chapter 106, Laws of 1941, must the cow be inspected before leaving Phillips County—or may the animal be inspected instead after reaching Havre.

Section 3324, Revised Codes of Montana, 1935, as amended by Chapter 106, Laws of 1941, provides in part:

"From and after the passage of this act, it shall be the duty of any and all persons . . . removing or taking any cow . . . from one county to another to cause the same to be inspected at a point of loading for brands, by a state stock inspector, and no railroad company, other carrier or person shall accept such livestock for shipment, unless the shipper shall produce a certificate of their inspection for brands as herein required; (provided, however, that the provisions of this act shall not apply to the said stock when driven by the owner from one county to another for the purpose of pasturing, feeding or changing the range thereof, nor to any stock driven from one county to another by any person . . . when such stock is used in the ordinary conduct of his . . . business . . .); and, provided further, that whenever any of the class of stock aforementioned shall be loaded for shipment with any railroad company and be consigned to any point where the state board of stock commissioners maintain a stock inspector, and where loading tally is filled as required in Section 3341, then such shipments so consigned, need not be inspected before shipment . . ."

The obvious purpose of Section 3324, as amended, *supra*, is to protect ownership of livestock. The inspection is directed toward the brands.

The section was amended in 1937 (Chapter 133, Laws of 1937), in 1939 (Chapter 85, Laws of 1939), and again in 1941, *supra*. Each legislative assembly has apparently endeavored to strengthen the provisions of the section. The 1937 amendment permitted the livestock commission to authorize livestock shipments to be made without inspection, in the event there was an inspection made at the destination by a regularly employed stock inspector. The 1939 amendment omitted that provision, but still retained the provision the act should not apply to livestock driven by the owner from one county to another, for the purpose of pasturing, feeding or changing the range thereof nor to any stock "so removed or taken" by any person, when such stock was used in the ordinary conduct of his business. The 1941 amendment changed the words "so removed or taken" to the word "driven." "Drive" is defined by Webster's International Dictionary, Second Edition, to mean "to impel or urge onward, to urge onward, as with blows"—a definition consonant with the popular meaning of the word in this livestock region.

It is obvious the legislative intention has been directed toward the inclusion of all livestock within the section's inspection provisions—except those driven from one county to another for pasturage and similar purposes and those driven in the ordinary conduct of business, such as a team of draft animals.

The facts presented in your query do not fall within either exception noted above. Nor does your factual situation come within the provision that, whenever any stock shall be loaded for shipment with any railroad company and be consigned to any point where the state board of stock commissioners maintain a stock inspector, and where loading tally is filed as required in Section 3341, such shipments so consigned need not be inspected before shipment—inasmuch as your Mr. John Doe did not load with any railroad company in Phillips County and consign to a point indicated by the statute.

Therefore, it is my opinion livestock taken by truck from the owner's ranch in one county to some point in another county must be inspected for brands at the point of loading, as provided in Section 3324, Revised Codes of Montana, 1935, as amended by Chapter 106, Laws of 1941.

Sincerely yours,

R. V. BOTTOMLY
Attorney General