

Opinion No. 217.

**State Livestock—Livestock—Animals—
Experiments, Livestock.**

Held: State livestock used in the experiment stations of the state of Montana, come within the exception (c) found in paragraph four of Section 1 of Chapter 59, Laws of 1943, and need

not be inspected before being transported from one experimental station to another.

June 8, 1944.

Mr. Paul Raftery, Secretary
State Livestock Commission
State Capitol
Helena, Montana

Dear Mr. Raftery:

You have written asking if livestock owned by the state of Montana and transported in state owned vehicles from one county to another within the state are subject to the inspection provided by Chapter 59, Laws of 1943.

The state of Montana has no authority or right to own or keep livestock or other personal property not necessary to the operation of the state or some of its institutions.

Exception (c) found in paragraph 4 of Section 1 of said Chapter 59 reads as follows:

"(c) . . . to any animal when driven by the owner from one county to another for the purpose of pasturing, feeding or changing the range thereof, nor to any animal driven from the county to another by the owner thereof, when such animal is used in the ordinary conduct of his business."

Due to the fact the livestock of the state is used in the ordinary conduct of its business, and is experimental work for the benefit of the entire state, it seems the state stock transported by the state officials would come within the said exception (c) found in paragraph 4 of Section 1 of Chapter 59.

Section 6 of Chapter 59, the penalty section, does not mention the state or public subdivisions, but speaks of persons only, which of course does not cover the state. (See Section 16, Revised Codes of Montana, 1935.)

Looking at the said Chapter 59 as a whole, it may not be presumed that the legislature intended that the said chapter should cover livestock owned by the state and used in its experimental departments. Furthermore, there are no provisions for paying the fees set forth in Section 4 of said chapter by the state or one of its agencies.

Therefore, it is my opinion livestock owned and used by the state of Montana in the experimental department

come within the exception (c) found in paragraph four of Section 1 of Chapter 59, Laws of 1943, and need not be inspected before crossing county lines when being transported from one experimental station to another. However, I do believe as a matter of courtesy the experimental department should notify the stock inspector of the county in which it is located that it intends to move such stock and give him the opportunity to examine such stock if he sees fit, save and except in the event of emergencies.

Sincerely yours,
R. V. BOTTOMLY
Attorney General