

Dear Mr. Raftery:

You have presented the following question:

Several horsemen, desirous of selling some of their horses, are going to advertise a sale under their own names, employ an auctioneer, and assemble the horses at stock yards where they will conduct the sale. It is certain some of the men are not discontinuing the business of raising horses.

Does the contemplated action appear violative of Chapter 52, Laws of 1937?

The term "livestock market" is defined in Section 2 of Chapter 52, Laws of 1937:

"The term 'livestock' market shall mean a place where a person, partnership or corporation shall assemble livestock for either private or public sale. Such service is to be compensated for by owner, on a commission basis, except: (1) any place used solely for a dispersal sale of the livestock of a farmer, dairyman, livestock breeder or feeder who is discontinuing said business and no other livestock is there sold or offered for sale; (2) any farm, ranch, or place where livestock either raised or kept thereon for the grazing season or for fattening is sold, and no other livestock is brought there for sale or offered for sale; (3) the premises of any butcher, packer, or processor who received animals exclusively for immediate slaughter; (4) the premises of any person, firm, or corporation engaged in the raising of livestock for breeding purposes only, who limits his or its sales to animals of his or its own production; (5) any place where an association of breeders of livestock of any class assemble and offer for sale and sell under their own management any livestock, who assume all responsibility of such sale and the title of livestock sold."

Section 3 of Chapter 52, Laws of 1937 provides for the licensing of livestock markets, and Section 4 requires the execution of a penal bond to the State of Montana.

Under the provisions of Section 2, above quoted, any place where livestock are assembled for either private or public sale is a livestock market, unless

**Opinion No. 86.**

**Livestock Commission—Livestock Markets—Horses, sale of.**

Held: A group of horsemen, unless organized as an association of breeders, may not advertise a sale of horses under their own name, employ an auctioneer, and assemble the horses at stock yards for public sale unless regularly licensed and bonded, as required by Chapter 52, Laws of 1937; but no such licensing and bonding is required of those individuals who are discontinuing the business of breeding or feeding livestock and who offer no livestock other than their own for sale.

July 8, 1943.

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

it falls within the five exceptions set forth, and must therefore be licensed and bonded. The purpose of these requirements is obvious: to protect both the livestock owners and producers and those who purchase from them.

Under the fact statement you have submitted to me, it is obvious exceptions two, three and four do not apply to the sale contemplated. Nor do the horsemen who propose to hold such sale appear to comprise "an association of breeders of livestock," which would bring them within the purview of exception five—that is, a duly constituted and regularly organized association, such as all stockmen are familiar with. However, if any of the horsemen are individually discontinuing business, it is possible exception one might remove those individuals from the requirement of being licensed and bonded to hold the sale of only their own stock.

It is therefore my opinion a group, unless organized as an association of breeders, may not advertise a sale of horses under their own name, employ an auctioneer, and assemble the horses at stock yards for public sale unless regularly licensed and bonded, as required by Chapter 52, Laws of 1937, but no such licensing and bonding is required of those individuals who are discontinuing the business of breeding or feeding livestock and who offer no livestock other than their own for sale.

Sincerely yours,  
R. V. BOTTOMLY  
Attorney General