

**Opinion No. 128.****Livestock—Inspection of Livestock—  
Cattle.**

**Held:** Chapter 176, Laws of 1945, requires the inspection of cattle before removal from one county to the next adjoining county—for the purpose of feeding and fattening—when such cattle are conveyed by the owner in his own truck to a ranch in the next adjoining county which is neither owned nor controlled by the owner of the livestock so moved.

February 20, 1946.

Mr. Raymond Shelden  
County Attorney  
Carter County  
Ekalaka, Montana

Dear Mr. Shelden:

You have stated this question:

Does Chapter 176, Laws of 1945, require the inspection of cattle before removal from one county to the next adjoining county—for the purpose of feeding and fattening—when such

cattle are conveyed by the owner in his own truck to a ranch in the next adjoining county which is neither owned nor controlled by the owner of the livestock so moved?

Section 1 of Chapter 176, Laws of 1945 begins:

"Except as in this act otherwise provided, it shall be unlawful to remove or cause to be removed from any county in this state any cow, ox, bull, stag, calf, steer, heifer, horse, mule, mare, colt, foal or filly, **by means of any railroad car, motor vehicle, trailer, horse-drawn vehicle, boat or in any manner whatsoever unless such animal shall have been inspected for brands by a state stock inspector or deputy state stock inspector and certificate of such inspection shall have been issued in connection with and for the purpose of such transportation or removal as in this act provided . . .**" (Emphasis mine.)

Subdivision (c) of the last paragraph of Section 1 contains the only exception which could conceivably apply to the factual situation you present:

"The provisions of section 1 of this act shall not apply, . . . (c) to any cow, ox, bull, stag, calf, steer, heifer, horse, mule, mare, colt, foal or filly **when driven on the hoof and not moved by means of any motor vehicle, trailer, horse-drawn vehicle, railroad car or boat, by the owner from one county to the next adjoining county within the State of Montana on to land owned or controlled by the owner of livestock so moved for the purpose of pasturing, feeding or changing the range thereof . . .**" (Emphasis mine.)

The legislative expression is clear and unambiguous. Clearly the legislative assembly intended all animals moved by means of motor vehicle must be inspected by a state stock inspector or a deputy state stock inspector before removal from any county. In the situation you present removal of the animals is to be by the owner in his own truck. In addition, your factual situation contemplates removal of the animals to the next adjoining county on to land which is now owned or controlled by the owner of the livestock so moved. Again the legislative intent

is clear—to avoid inspection the animals must not only be driven on the hoof from one county to the next adjoining county, but they must be driven **"on to land owned or controlled by the owner of livestock so moved for the purpose of pasturing, feeding . . ."**

It is beyond my power to alter or render ineffective the clearly expressed intention of the legislature. It is the duty of the legislative assembly to change the law if the people will it.

I therefore agree with your opinion: Chapter 176, Laws of 1945, requires the inspection of cattle before removal from one county to the next adjoining county—for the purpose of feeding and fattening—when such cattle are conveyed by the owner in his own truck to a ranch in the next adjoining county which is neither owned nor controlled by the owner of the livestock so moved.

Sincerely yours,  
R. V. BOTTOMLY,  
Attorney General