

slaughters and sells, or sells and then slaughters, meat cattle not of his own breeding, such person comes within the contemplation of the licensing statute (Section 46-502, R. C. M., 1947) and must obtain a meat peddler's license.

September 29, 1952.

Mr. James McKenna
County Attorney
Fergus County
Lewistown, Montana

Dear Mr. McKenna:

You have requested my opinion on the questions raised by the following facts:

"A" is in the business of buying and selling cattle in Lewistown, Montana. "A" buys a cow and sells the same to "B", who is either a private individual or a person engaged in the business of selling meat. As an accomodation to "B", after selling said live animal to him, "A" butchers the animal without charge, and "B" then either uses the meat as an individual or sells the same to the public. "A" does not maintain a slaughter house.

The question arises as to whether "A" is required to obtain either a butcher's or meat peddler's license under Sections 46-501 and 46-502, Revised Codes of Montana, 1947.

Section 46-501, supra, provides in part as follows:

"Every person, firm, corporation, or association who slaughters or causes to be slaughtered meat cattle for the purpose of selling or distributing any of the meat or by-products of such cattle in this state, and who maintains slaughterhouses for this purpose * * * shall, for the purposes of this act be designated a 'butcher'. Every other person, firm, corporation, or association who slaughters or causes to be slaughtered any meat cattle or who buys and sells any dress beef or veal, and who does not maintain a licensed slaughterhouse or maret, shall, for the purposes of this act, be designated a 'meat peddler'."

It is apparent from this section that

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**Livestock—Meat Cattle—Cattle—
Butchers—Meat Peddlers.**

Held: Where one who does not maintain a slaughterhouse, either

in order to be designated either a "butcher" or a "meat peddler" one must slaughter, or cause to be slaughtered, cattle. If the purpose of such slaughter of cattle is that of selling or distributing the same, and if in addition one maintains a slaughterhouse then one is designated a butcher.

The statute is silent as to whether one must slaughter cattle for the purpose of selling or distributing the same in order to be a meat peddler. However, the statute does say that one who slaughters cattle and does not maintain a slaughterhouse or market, shall be designated a "meat peddler."

Section 46-502, Revised Codes of Montana, 1947, imposes a five dollar per year license fee upon a "butcher" for each market or business he operates within the county, and a one hundred dollar per year fee upon each "meat peddler." Section 46-502, supra, then excepts from the license fee provisions any person who slaughters cattle of his or its own breeding.

Under the facts as you have related them to me "A" is not a "butcher" within the meaning of Section 46-501, supra, because he does not maintain a slaughterhouse. However, since "A" does slaughter cattle he becomes a "meat peddler." Since the cattle are not of his own breeding he does not come within the exception from the license fee provided for in Section 46-502. The fact that "A" makes no charge for slaughtering the cattle, is not material as the statutes do not make any provision for a consideration of this fact. Whether live cattle are sold and then slaughtered by the seller without charge, or whether the cattle are slaughtered first and then sold as meat makes no difference, as it is the slaughtering of the animal which is the material element in determining if a license must be obtained.

It is therefore my opinion that where one who does not maintain a slaughterhouse, either slaughters and sells, or sells and then slaughters meat cattle not of his own breeding, that such person comes within the contemplation of the licensing statute (Section 46-502, Revised Codes of Montana, 1947) and must obtain a meat peddlers license.

Very truly yours,
ARNOLD H. OLSEN
Attorney General