

Opinion No. 50

LIVESTOCK SANITARY BOARD; Slaughter Houses; license required for slaughter of poultry—SLAUGHTER HOUSES; License required for slaughter of poultry—POULTRY; Slaughter of; Powers of Livestock Sanitary Board—LICENSES; Poultry slaughter houses—Sections 46-235, 46-402 and 46-411, Revised Codes of Montana, 1947.

Held: A person, firm or corporation maintaining a slaughter house, meat packing house or meat depot in the state handling only poultry is subject to inspection, regulation and licensing by the Livestock Sanitary Board.

October 18, 1962

Dr. J. W. Safford
State Veterinarian
Livestock Sanitary Board
Helena, Montana

Dear Dr. Safford:

You have presented to this office the question of whether or not the operator of a slaughter house, meat packing house or meat depot in Montana whose activities are confined to the handling of poultry must secure a license from the Livestock Sanitary Board and be subject to the sanitary requirements of the board.

I presume your question arises out of doubt in interpreting Opinion No. 14, Volume 27, Opinions of the Attorney General, which held that the board had no power to return to the consignor, or confiscate and destroy poultry infested with or exposed to poultry diseases. That opinion was based in large measure on a distinction between "livestock" and "poultry" and held essentially that certain powers of the board with regard to confiscation and destruction of diseased "livestock" could not be applied in the case of diseased "poultry."

Section 46-235, Revised Codes of Montana, 1947, provides:

"It shall be unlawful for any person, firm or corporation to maintain or conduct any slaughter house or meat packing house or meat depot in this state without having a license issued by the Livestock Sanitary Board. The annual fee for all licenses issued under the provisions of this section shall be one dollar and shall be paid into the general fund. All licenses shall be made to expire on the last day of December of the current year in which they are issued, and shall be renewed by said board upon request of the licensee; provided, that when the Livestock Sanitary Board shall find that the place for which such license is issued is not conducted

in accordance with the rules, regulations, and orders of said board, made and promulgated in accordance with the provisions of this act, then said board shall revoke such license and shall not renew the same until such place is put in a sanitary condition in accordance with such rules and regulations; provided, further, that all licenses now issued by the State Board of Health for the operation of slaughter houses or meat packing houses or meat depots shall continue in effect for the period of said license, unless canceled by the Livestock Sanitary Board for good cause shown."

You will note that throughout this section no distinction is made between "livestock" and "poultry." The entire section is concerned with the licensing and regulation of premises devoted to slaughter, packing and storage of "meat".

Section 46-402, Revised Codes of Montana, 1947, states:

"The Livestock Sanitary Board is hereby empowered to establish a system of meat inspection and meat grading in cities of the first class and in any other city, town, county or district when considered necessary for the public health or welfare and are given supervision over all establishments used in the business of slaughtering and preparing animals for food purposes in the State of Montana, except establishments slaughtering or preparing animals for food purposes where inspection is maintained by the Bureau of Animal Industry of the United States Department of Agriculture. And the Livestock Sanitary Board is empowered and directed at any and all times to visit any establishment, place, or premise where animals are slaughtered or prepared for food purposes, as well as all retail meat markets, meat canneries, sausage factories, curing and smoke houses, and similar places, for the purpose of determining the wholesomeness and healthfulness of animals slaughtered for food purposes, meats and meat food products intended for human consumption and the sanitary conditions of buildings, drainage, sewage, cleanliness, equipment, utensils, employees, clothing, water supply, and disposal of refuse, and the Livestock Sanitary Board is further authorized and empowered to provide suitable rules and regulations to **insure a healthful, wholesome, and safe meat supply for the State of Montana.**" (Emphasis supplied.)

Section 46-411, Revised Codes of Montana, 1947, states:

"It shall be unlawful for any person, firm or corporation to maintain, or operate a slaughtering house, which is unclean or unsanitary."

It is my opinion that Section 46-235, *supra*, must be read and construed with the Montana Meat Inspection Law (Sections 46-401, *et seq.*, RCM, 1947). There pervades the entire body of the law setting out the powers and duties of the Livestock Sanitary Board, the intent on the part of the legislature that such board should, under the police power of the State of Montana, undertake regulation of the processing of meat

foods for human consumption at the earliest practical stages of such processing. The fact that the legislature provided, in Section 46-415, Revised Codes of Montana, 1947, that the Meat Inspection Law was to be additional legislation for the establishment of meat inspection and not repealing or amendatory of any of the existing law on meat inspection, evidences their concern that meat intended for human consumption should be checked to insure its wholesomeness and that such checking at necessary steps in processing and marketing might not be accomplished under then existing law.

Under the provisions of Section 27-107, Revised Codes of Montana, 1947, it is unlawful to have in possession with the intent to sell for human food parts of any animal slaughtered, prepared, handled or kept under unsanitary conditions. It is further unlawful to have in possession with intent to sell the carcass of any fowl which has died from any cause other than being slaughtered in a sanitary manner.

Under the provisions of Section 46-216, Revised Codes of Montana, 1947, the board is charged with the duty of enforcing the portion of said Section 46-216, *supra*, making it unlawful to hold or possess as human food intended for sale carcasses of any animal slaughtered or kept under unsanitary conditions.

Even with Sections 27-107 and 46-216, *supra*, in effect, the legislature deemed it necessary for the protection of the public to pass additional meat inspection laws.

Sections 3-2201 to 3-2209, Revised Codes of Montana, 1947, as amended, relating to the powers of the Commissioner of Agriculture and the Montana Poultry Advisory Board, do not conflict with this opinion. The powers of the commissioner and the board under Sections 3-2201 to 3-2209, *supra*, relate to live poultry and eggs for hatching purposes, and not to poultry held for slaughter or slaughtered.

It is therefore my opinion that a person, firm or corporation maintaining a slaughter house, meat packing house or meat depot in the state, even though confining his activities solely to poultry must subject himself to inspection, regulation and licensing by the Livestock Sanitary Board.

Very truly yours,
FORREST H. ANDERSON
Attorney General