

Opinion No. 47-4979

January 20, 1947

BY: C. C. McCULLOH, Attorney General

TO: Mr. Sam McCue, Secretary Cattle Sanitary Board Albuquerque, New Mexico

{*7} Mr. J. R. Modrall has presented to me your request concerning the authority of the Cattle Sanitary Board to charge inspection fees upon shipments of cattle in intrastate shipments as well as interstate shipments, and also concerning your authority to charge inspection fees for inspecting horses, mules and asses in intrastate shipments.

In connection with the inspection fees on shipments of cattle; Section 49-934 of the 1941 Compilation, makes it unlawful for any person, firm or corporation to offer and for any railroad company or other common carrier to receive, for the purpose of shipment and transportation from points within to other points within or beyond the limits of the State, any cattle unless the same shall have been duly inspected and a certificate thereof issued by such inspector.

Section 49-935 authorizes the Cattle Sanitary Board to fix a fee for inspection not to exceed six cents per head on cattle, horses, mules and asses.

Section 49-939. in a later act, also makes it unlawful for any person, firm or corporation to transport within the State of New Mexico, or from the State to any point beyond {*8} the limits thereof, any meat cattle, sheep or goats or the carcasses thereof, unless such animal or animals or carcasses shall first have been inspected by a duly authorized inspector and an inspection certificate issued. This section has a proviso that no inspection shall be required where the transportation from one point to another within the State is entirely upon lands exclusively within the control of the party transporting or procuring the transporting of such animal, animals or carcasses.

Since both Sections 49-934 and 49-939 require inspection of intrastate shipments of cattle as well as interstate shipments, there seems to be no question but that the Cattle Sanitary Board has authority to charge the regular inspection fee on both classes of shipments.

Regarding your second question: Section 49-938 prohibits the removal from the State of horses, mules or asses without having an inspection made. No provision appears relative to intrastate shipments of these classes of animals and I am therefore of the opinion that an amendment would be necessary before the Cattle Sanitary Board would be authorized to charge an inspection fee on intrastate shipments of such animals.