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August 17, 1933.

Phoenix,

State Dairy Department,
State Capitol,
Phoenix, Arizona.

Gentlemen: Attention J. D. Cagg, Deputy.

With reference to your letter of August 16th, wherein you inquire as to the legality of a creamery truck charging one man for hauling his milk and making no charge for hauling another man's milk in the same locality, you are advised as follows;

That Section 59 of Chapter 82, Session Laws, 1931, relating to dairies and dairy products inhibits any practice upon the part of the person, firm or corporation engaged in the buying of milk which tends to result in the destruction of legitimate competition.

This section provides in substance that no person, firm or corporation engaged in the business of buying milk, cream or butter fat for the purpose of manufacture either by himself or another shall with the intention of destroying or injuring the business of a competitor or restraining in any manner an open competition in said business discriminate between the different sections, localities, cities and communities of this state by purchasing or offering to purchase such commodities at a higher price in any one locality than is paid or offered for the same commodity by such person, firm or corporation in any other locality, after making due allowance for the difference, if any, in the grade or quality of the commodity and in the actual cost of transportation from the place of purchase to the place of manufacture, sale or storage, and in the event he so does he shall be guilty of a misdemeanor.

Certainly the element of low cost or no cost transportation would permit a buyer to purchase such commodity at a higher price than the same might be purchased in another locality if the actual cost of transportation were to be reflected in the purchase price.

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If then in the instant case, the creamery truck is paying the same price for the milk to both men but charging one for hauling and not charging the other for hauling, I am of the opinion that such practice is unlawful and in contravention of the said section above referred to.

Yours very truly,

Attorney General.

Assistant Attorney General.

JCF/an

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