

*Pickard  
Stamps*

December 15, 1953  
Letter Opinion  
No. 53-165-L

Mr. J. C. Evans, Secretary  
Live Stock Sanitary Board  
407 State Office Building  
Phoenix, Arizona

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ARIZONA ATTORNEY GENERAL**

Dear Mr. Evans:

This is in reply to your letter of December 10, 1953, and our related conversations in which the following questions were raised:

(1) "If cattle are shipped by the Southern Pacific Railroad Company from another state other than Arizona to Yuma, Arizona, as the destination and then reshipped by truck out of Arizona across the California line into California, should a brand inspection be made and a fee charged for such inspection on these cattle?"

(2) "Should such shipments be inspected and a fee charged if the shipment originated in Arizona and gave Yuma as the destination, by railway, then reshipped by truck into California?"

The answer to the above questions lies in the applicable provisions of the Arizona Code, which are:

Section 50-304, A.C.A. 1939

"50-304. Manner of inspecting live stock--  
Record of inspections. The inspectors shall  
inspect for health and for marks and brands,  
at the railway loading station, at the place  
of exit from the state, and at all places  
where live stock are gathered to be sold,  
transported or driven off their range for any  
purpose whatsoever. Inspectors shall make  
inspections by daylight and shall require  
from the owner or person in charge a list of  
the brands and marks and determine by inspection  
of such live stock that the person in charge  
is the owner thereof or is authorized in writing

by the owner to handle such stock. The inspector shall make a permanent record of such inspection, showing the place and date of making the same, the name of the seller, the shipper, the kind and description of such live stock, together with the number of head in every brand and mark, and any other necessary information. If, upon such inspection, live stock be found not belonging to the shipper, or which the driver is not authorized in writing to sell, ship or drive, it shall be taken by the inspector and dealt with in accordance with the rules of and the instructions of the board. The inspector shall make a record of all inspections in triplicate, the original of which shall be sent to the board, a duplicate furnished the person having such inspection made and retain a duplicate for his own use." (Emphasis supplied.)

Section 50-306, A.C.A. 1939, as amended

"50-306. Inspection must be made immediately--  
Fee--Certificate.-- (a) Before any neat  
animals, horses, mules or asses are slaughtered,  
sold or driven or conveyed from their accustomed  
range, or driven or conveyed out of this state,  
or driven or conveyed from a pasture or other  
place where they have been kept, such animals  
must be inspected for health, brands and marks  
immediately before such drive or conveyance.

(b) Except as otherwise provided for in this act, it shall be unlawful to slaughter, sell, drive or convey any of the aforesaid animals, without such inspection. Upon being advised that any of the aforesaid animals are subject to inspection, the inspector shall proceed at once to inspect said animals, and the owner or person in charge shall pay said inspector fifteen cents (15¢) per head for such inspection. Upon the completion of said inspection, the inspector shall deliver to the person in charge of said animals a certificate on a form provided by the live stock sanitary board, showing the date of inspection, the purpose for which inspected, the number, sex and kind of animals inspected, with the brands thereon, and the fee collected therefor, if any, which fee shall thereupon be

paid to said inspector by the person in charge of said animals. Provided, that when, prior to inspection, application is made to the board in writing for a waiver of inspection fee, and it appears to the satisfaction of the board that animals are to be moved from pasture or other feeding ground for any purpose, other than slaughter, sale, change of ownership, or removal from the state, the board may waive the inspection fee; but it is unlawful for any person to sell, transfer ownership in, or move any of the aforesaid animals from this state until said animals have been inspected and the inspection fee paid thereon.

Any person who shall sell or otherwise cause the ownership to be changed of any neat animals, horses, mules or asses or who shall cause any such animal to be slaughtered or driven or removed from the state, from the accustomed range or from a pasture or other place where they have been kept before they have been inspected as provided in subsections (a) and (b) hereof, and any person who, for the purpose of procuring any waiver of an inspection fee as provided in subsection (b), shall falsely represent to the board that any animals are being removed from one feeding ground to another for a purpose other than change of ownership, slaughter or removal from the state, shall be guilty of a misdemeanor and upon conviction shall be fined not less than fifty dollars (\$50.00) nor more than three hundred dollars (\$300.00), or imprisoned in the county jail not less than thirty (30) days nor more than one hundred and eighty (180) days, or both." (Emphasis supplied.)

Section 50-307, A.C.A. 1939

"50-307. Unlawful to receive live stock for transportation without inspection. It shall be unlawful for any railroad to receive any neat animals, horses, mules or asses for transportation unless furnished with a certificate by an inspector showing that such stock has been inspected for brands and health. A violation of this section shall

constitute a misdemeanor punishable by a fine of not less than twenty (20.00) nor more than one hundred dollars (\$100) for each and every such animal so transported without inspection. It shall be unlawful for any person, firm or corporation to transport or convey, by any conveyance other than by railroad, any neat animals, horses, mules or asses without first having such live stock inspected, and having a duplicate certificate of inspection showing the number, kind and sex of such animals, with their brands and other description necessary to the identification of the same. Any inspector may stop any person who is in possession of and is transporting any such animals and demand the duplicate certificate of inspection. Any person violating this section shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than twenty (\$20.00) nor more than three hundred dollars (\$300), or by confinement in the county jail not exceeding ninety (90) days, or by both such fine and imprisonment." (Emphasis supplied.)

Answer to Question No. 1: It is the opinion of the Department of Law, after a thorough examination of the above-quoted statutes, that the first question must be answered in the affirmative. The animals in question are being driven out of the state by truck after having been unloaded from the railroad cars. The inspection made when the cattle were loaded on the railroad cars with Yuma, Arizona, as the destination are valid only to that point. It is necessary, in order to comply with the underlined portions of Sections 50-304, 50-306 and 50-307, supra, that an inspection be made and a fee charged therefor.

Answer to Question No. 2: The same reasoning applies to this question, and the answer is the same as that to Question No. 1.

If we may be of any further service in this matter, do not hesitate to call upon us.

Very sincerely yours,

R. DEAN BURCH  
Special Assistant to  
the Attorney General

RDB:DP