

Opinion No. 53-5716

March 27, 1953

BY: RICHARD H. ROBINSON, Attorney General

TO: Charline Irvan, Secretary Cattle Sanitary Board of New Mexico P. O. Box 1296
Albuquerque, New Mexico

{*112} This is in answer to your request for an opinion upon the question of when cattle coming into the State of New Mexico become "New Mexico cattle" and become subject to the inspection laws of this state.

Under § 49-955 persons shipping or transporting cattle into the State of New Mexico are required to obtain a permit before doing so, with the exception of those cattle being transported directly to sales rings or yards which are inspected by the Bureau of Animal Industry of the United States Department of Agriculture. The Act was originally passed in 1943 as Ch. 11, § 1. In 1951 the Legislature amended the Act to include the above stated exception and also the following words:

"* * * and shall also contain requirements of further tests of breeding cattle only for tuberculosis or Bangs' disease if the animals are within the state, if required by the Cattle Sanitary Board. The permit must accompany the animals at the time they enter the state and the requirements as set forth in said permit either as to the tests for contagious diseases or otherwise, as the case may be, must be complied with in every particular before such animals shall be permitted to enter."

It would appear from the text of this enactment that this involves a permit to bring cattle into the State of New Mexico only. This Act makes no provisions, specifically, for inspections by the Cattle Sanitary Board.

Section 49-939 N.M.S.A., 1941 Comp., as amended, Laws of 1929, Ch. 87, § 1, requires inspection certificates of certain cattle, to-wit, meat cattle, sheep or goats or the carcasses thereof. This section of the law makes it unlawful for any person, and so forth, to transport within the State of New Mexico, or from the State to any point beyond the limits thereof, the above stated cattle, unless an inspection by an inspector duly authorized by the Sheep Sanitary Board or Cattle Sanitary Board shall have been made and a proper showing of ownership of the animals having been provided, with the one exception it shall not apply within the state where the transportation is exclusively upon the lands and under the control of the parties so procuring the transportation.

It is therefore the opinion of this office that under § 49-939 any movement of neat cattle, sheep or goats or the carcasses thereof accomplished within the State of New Mexico is subject to such inspections as are required by law and that where neat cattle, sheep or goats are shipped from points without the state to points within the State of New Mexico they become New Mexico cattle upon entering the boundaries of this state, and that the

Sheep Sanitary Board or the Cattle Sanitary Board is acting within the letter and the spirit of the law in inspecting these animals at such points and places as are convenient and where such Board reasonably find it necessary to protect the public interest. The term "in transit" is a generic term which {*113} describes more aptly a bailment situation. Merchandise or freight may be in transit for an indeterminate period and involve an indeterminate number of stopping places.

A permit to import animals under § 49-944, as such, permits the importation into the state and the designation by the importer of the place within the state to which the cattle or animals are to be shipped does not preclude the New Mexico Cattle Sanitary Board or the Sheep Sanitary Board, or authorized representatives, from performing such inspection duties required of them under § 49-944, supra, as they deem necessary in the public interest.

We trust this answers your question.

By: William J. Torrington

Assist. Attorney General