

## Opinion No. 60-100

June 1, 1960

**BY:** OPINION of HILTON A. DICKSON, JR., Attorney General

**TO:** Mr. Charles A. Curtis Secretary Cattle Sanitary Board of New Mexico P. O. Box 1296 Albuquerque, New Mexico

### QUESTION

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Can the Cattle Sanitary Board control, by regulation, feed, rest and water yards for cattle in interstate commerce, transported by trucks through New Mexico?

#### CONCLUSION

Yes.

### OPINION

#### {\*468} ANALYSIS

The Cattle Sanitary Board is given broad powers to protect the cattle of this State from contagious and infectious diseases. Section 47-2-18, N.M.S.A., 1953 Comp., enumerates part of these powers as follows:

". . . .

(a) Shall exercise all general supervision over the livestock interests of the state, protect the industries from theft and from contagious and infectious diseases, and protect the public from diseased and unwholesome meat products; . . ."

Section 47-3-1, N.M.S.A., 1953 Comp., reads in part as follows:

"The cattle sanitary board is hereby authorized to use all proper means to prevent the spreading of dangerous and fatal diseases among animals, such as cattle, horses, mules and asses and for the extirpation of such diseases . . ."

It should be noted that the regulation proposed to be issued by the Board controlling these yard deals with their sanitary conditions and the handling and disposal of injured and sick cattle. This is proper regulation in view of the possibility that such cattle rested in this State might very possibly have diseases which could be spread to cattle in this State if the yards were not properly supervised. At the present time many of the yards do not use proper methods of disposing of sick or injured cattle found in them and in

many instances these animals are left in the yards undisposed of when the remainder of the cattle are shipped to their destination outside the State. The statute cited above, in our view, confers sufficient authority upon the Board to issue the proposed health regulation to supervise these yards since the entire livestock population in this State could easily be infected with dangerous diseases if sanitation and disposing measures are inadequate.

We turn now to the contention that such regulation would be a burden upon interstate commerce and, therefore, prohibited. This contention is not well taken. It is a well recognized rule that states, under the exercise of their police power, may pass sanitation and quarantine regulations even though they interfere with interstate commerce so long as they are reasonable and do not impose an undue burden upon interstate commerce. **Oregon-Washington R. & Nav. Co. v. State of Washington**, 270 U.S. 87, 46 S. Ct. 279, 70 L. ed. 482; **Mintz v. Baldwin**, 2 F. Supp. 700. As we view the proposed regulation it does not pose an undue burden upon interstate commerce and is a reasonable exercise of the state police power. We, therefore, hold that the Cattle Sanitary Board may validly regulate interstate cattle rest yards so as to prevent the spread of diseases in the animal population of this state.

By: Boston E. Witt

Assistant Attorney General