

Opinion No. [29-98]

November 7, 1929

BY: J. A. MILLER, Assistant Attorney General

TO: Mr. Jose A. Bachicha, Encino, New Mexico.

SHEEP SANITARY BOARD -- Fees of inspector.

OPINION

In your letter of November 2 you ask whether or not "it is lawful for a sheep inspector to charge for inspecting stock that is going to be shipped or driven outside the state besides the salary that he draws from the Sheep Sanitary Board."

The answer to your question is to be found in sections 178, 201 and 203 of the Codification of 1915.

By section 178 it is provided, among other things, that the board may appoint and at its pleasure remove sheep inspectors who shall receive such compensation as may be fixed by the board. By section 201 the duty of inspecting sheep for export is imposed and provision is made for the collecting of a fee of one-half cent for each sheep so inspected and before the inspector shall issue a certificate permitting such sheep to be shipped or driven out of the state and providing further that in case sheep about to be shipped or driven out of the state have not been inspected by the Bureau of Animal Industry and a certificate issued, the Sheep Sanitary Board Inspector shall also examine such sheep as to their sanitary condition and for this service he charges a fee of one cent per sheep. The one-half cent fee above referred to covers an inspection to ascertain ownership rather than sanitary condition.

By section 203 it is provided that all fees collected under sections 200 and 201 shall be used for the purpose of defraying the cost and expenses of inspectors therein provided for and for no other purpose.

I think you will readily gather from the foregoing that while it is the duty of the inspector appointed by the Sheep Sanitary Board to inspect sheep about to be shipped or driven from the state and to collect the prescribed fees, therefore, such fees do not belong to the inspector but must be by him turned into the board. The inspector's compensation is the amount fixed by the board and has nothing to do with the fees collected by him.