

AGRICULTURE:
COMMUNITY SALES:

The community sales law and the regulations adopted thereunder do not apply to sales which deal only in horses and not other species of livestock. Community sales and stockyards markets which are subject to the provisions of the Packers and Stockyards Act (7 U.S.C.A. Sec. 181 et seq.) or to the provisions of Chapter 276 RSMo 1949, are by virtue of such state or federal regulation exempted from the provisions of the Missouri Community Sales Law.



January 15, 1957

L. A. Rosner, DVM
State Veterinarian
Jefferson Building
Jefferson City, Missouri

Dear Dr. Rosner:

Reference is made to your request for an official opinion of this office, which request reads in part as follows:

"I respectfully request a reply from your office as to whether or not a license is and should be required for these community sales dealing only in horses.

"Our second problem concerns the Community Sales and Stockyards Markets which are without the Federal Public Stockyards Inspection Services of the United States Department of Agriculture but which operate under the Federal Stockyards and Packers Act. The Federal Stockyards and Packers Act is intended for the regulation of marketing transactions in stockyards or sales of a particular size. It requires the bonding of all commission firms, traders and dealers who carry on business within the sale or yards. The Law makes no provision for the sanitary conditions of the yards and for the health inspection of the livestock sold therefrom.

"Our Community Sales Law specifies that it shall apply to all such sales and stockyards markets which are not under Federal Inspection. The intent of the Community Sales Law is to protect the purchaser of the various classes of livestock by means of the health inspections and maintenance of satisfactory sanitary conditions. We feel that those community sales and stockyards markets which are not operat-

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ing under Federal Public Stockyards Inspection Service should be licensed and bonded, and should maintain approved veterinary inspection of livestock as required under the Community Sales Law.

"We would very much appreciate your opinion as to whether or not our position is correct in maintaining that such sales or yards which are not under public stockyards inspection should be licensed and should comply with all other provisions of the Community Sales Law and Regulations."

The questions asked will be treated in the order presented, The "community sales law", to which you refer, is contained in Chapter 277, RSMo 1949. Section 277.030 provides that no person "shall engage in the business of operating a community sale unless duly licensed as herein provided." Section 277.020, para. (4) defines the term "community sales" as follows:

"The term 'community sales' means any series of sales, exchanges, or purchases of any livestock made at regular or irregular intervals at an established place in this state, by any person, directly or indirectly, for or on account of the producer or producers, consignor or consignors thereof, at public auction or at private sale, except that this term shall not apply to established markets operating under federal or state regulations, or to any public or private farm or purebred livestock sale."

The term "livestock" is defined in the same section as follows:

"The term 'livestock' shall mean and include cattle, swine, sheep, goats, and poultry."

We note that the term "livestock" is defined to mean "cattle, swine, sheep, goats, and poultry."

It is a well known canon of statutory construction that the expression of one thing implies the exclusion of another thing. State ex rel. Kansas City Power and Light Co. v. Smith, 111 SW2d 513, 342 Mo. 75. Applying such rule we are of the opinion that the express mention of certain species of livestock impliedly excludes other species not expressly mentioned. Therefore, since horses are not specifically included in the definition of the term "livestock" we are of the opinion that the community sales law and the regulations adopted thereunder do not apply to sales which deal only in horses, and in no other species of livestock.

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From your letter of request, and from recent telephone conversations with you, we understand your second question to be whether community sales and stockyards markets, which are subject to the provisions of the Packers and Stockyards Act (7 U.S.C.A., Sec. 181 et seq.) are by virtue of such regulation exempt from the provisions of Chapter 277 RSMo 1949, under authority of Section 277.020. The purpose of the Packers and Stockyards Act was to remedy abuses that had grown up in large stockyards in various parts of the county, whereby resources and shipments were charged excess and discriminatory rates for services rendered in handling and selling livestock. *Allen C. Driver Inc. v. Mills*, 86 Atl.2d 724. As you have stated in your opinion request, said law makes no provision for sanitary conditions for the sanitary condition of the yards or for the health inspection of livestock sold therefrom, which is, of course, one of the prime purposes of the Missouri Community Sales Law.

It is to be noted that Section 277.020 RSMo 1949, exempts from the operation of the Community Sales Law "established markets operating under federal or state regulations".

Under date of July 14, 1954, this office issued to you an official opinion holding that certain markets which were subject to the provisions of Chapter 276 RSMo 1949, and the Packers and Stockyards Act were thereby exempted from the operation of Chapter 277. This conclusion was reached notwithstanding the fact that neither of the referred-to acts deal with the sanitation of yards or the health inspection of livestock sold therefrom. A copy of said opinion is enclosed herewith.

We have re-examined said opinion and believe that the conclusion there reached is correct, and correctly answers the question at hand. We are unable to read into the provisions of Section 277.020, when the Legislature has failed to so provide, that only those markets which are subject to a similar type of regulation under either state or federal law would thereby be exempted from the operation of Chapter 277. Said exemption merely refers to state or federal "regulation", without specifying the type, and therefore we are led to the conclusion that any type of regulation would qualify.

CONCLUSION

Therefore, in the premises, it is the opinion of this office that the community sales law and the regulations adopted thereunder do not apply to sales which deal only in horses and no other species of livestock.

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It is the further conclusion of this office that community sales and stockyards markets which are subject to the provisions of the Packers and Stockyards Act (7 U.S.C.A., Sec. 181 et seq.) or to the provisions of Chapter 276 RSMo 1949, are by virtue of such state or federal regulation exempted from the provisions of the Missouri Community Sales Law.

The foregoing opinion, which I hereby approve, was prepared by my assistant, Donal D. Guffey.

Very truly yours,

John M. Dalton
Attorney General

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