

September 27, 1972

OPINION LETTER NO. 249  
Answer by letter-Wieler



Mr. Dexter D. Davis  
Commissioner of Agriculture  
Department of Agriculture  
Post Office Box 630  
Jefferson City, Missouri 65101

Dear Mr. Davis:

This is in response to your request for an opinion as to whether or not a non-profit cooperative marketing association, organized under Chapter 274, RSMo 1969, is exempt from the licensing requirements of the Missouri Livestock Marketing Law, Chapter 277, RSMo 1969.

It is our understanding that your inquiry concerns non-profit cooperative marketing associations which engage in the business of operating a "livestock sale or market" as such term is defined in Section 277.020, RSMo.

Section 277.030, RSMo 1969, provides that:

"No person as defined in this chapter shall engage in the business of operating a livestock sale or market unless duly licensed as hereinafter provided."

Section 277.020(3) defines the term "person" as "individuals, partnerships, corporations and associations."

Section 277.040, sub. 2, provides for the payment of an annual license fee of thirty-five dollars.

The seeming conflict arises from the provision of Section 274.180, RSMo 1969, which provides that non-profit cooperative marketing

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associations organized under Chapter 274, RSMo, shall ". . . pay an annual fee of ten dollars only, in lieu of all franchise or license or corporation or other taxes, or taxes or charges upon reserves held by it for members."

The applicable standard to be applied when two statutes conflict and one must prevail is that, all else being equal, a special statute must take precedence over the general law; and, all else being equal, later statutes take precedence over earlier statutes. *Collins v. Twellman*, 126 S.W.2d 231, 233 (Mo. 1939). With this in mind, we note that the Missouri Livestock Marketing Law, Chapter 277, was enacted subsequent to the Cooperative Marketing Association Law, Chapter 274. See Laws 1943, Section 2, page 310 and Laws 1923, Section 30, page 111. Also, in two prior opinions issued from this office, we held that the Missouri Livestock Marketing Act has specific purposes, i.e., the prevention of the spread of livestock disease and the protection of those who use these livestock markets as outlets for the buying and selling of livestock. See Opinion No. 226 issued July 21, 1965, to Dr. George C. Stiles and Opinion Letter No. 259 issued June 30, 1971, to you (copies enclosed).

Under these circumstances, we are of the opinion that the subsequent special law governs and, therefore, a non-profit cooperative marketing association, organized under Chapter 274, operating a livestock sale or market as defined by Section 277.020(2), RSMo 1969, must be licensed under the provisions of Chapter 277, the Missouri Livestock Marketing Law.

Yours very truly,

JOHN C. DANFORTH  
Attorney General

Enclosures: Op. No. 226  
7-21-65, Stiles  
  
Op. Ltr. No. 259  
6-30-71, Davis