

AGRICULTURE:
COMMUNITY SALES LAW:

Application of the Missouri Community
Sales Law to stated transactions.

July 14, 1954



L. A. Rosner, DVM
State Veterinarian
Department of Agriculture
Jefferson City, Missouri

Dear Sir:

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

"* * * I would very much appreciate an opinion from your office as to whether or not the community sales law, Senate Bill No. 11, 1943, would apply to (1) the city of West Plains stockyards and scale facilities; (2) the various buyers who utilize the scale and rent holding facilities in the West Plains stockyards; (3) privately owned concentration points and facilities, the latter being the small yard loading and weighing facilities that some dealers in feeder pigs maintain; (4) to terminal markets which are not under federal or state supervision.

"By way of explanation I would like to mention that the West Plains stockyards are nothing more than the holding and weighing facility for swine purchased privately in most instances. It is a well known and long established meeting point for the consignor of feeder pigs and the prospective buyer. No commissions are charged except a weighing fee of 3 1/2¢ per head. It is probable that holding pens are rented for a specified period of time.

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Due to the lack of inspection and application of the same regulations as apply to swine handled through the community auction sales, we have had increasing difficulty in recent years with the pigs which are sold and handled through this sale."

The questions which have been presented will be discussed in order. You first inquire whether the community sales law applies to the "city of West Plains stockyards and scale facilities."

We understand the facts to be as follows: The city owns and maintains stockpens and scales for the weighing of livestock. The city charges a fee of so much per head for the use of the scales and probably rents the pen facilities for a specified time. We further understand from our conversation with you that the city does not conduct or manage the sales of livestock, but that such matters are handled privately by persons using the facilities above mentioned.

The community sales law to which you refer is found in Chapter 277, RSMo 1949. The term "community sales" is defined in Section 277.020, 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."

Section 277.030 provides that: "No person * * * shall engage in the business of operating a community sale unless duly licensed, * * *." Said section reads as follows:

"No person as defined in this chapter shall engage in the business of operating a community sale unless duly licensed, as herein provided."

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It is noted that a person, as defined in this chapter, is prohibited from engaging in the business of operating a community sale unless licensed and that a community sale is defined in part in Section 277.020, supra, to be the sale, exchange or purchase of livestock by a person directly or indirectly for or on account of the producer or producers, consignor or consignors thereof.

Assuming the facts as above stated to be true, and upon which this opinion is based, it is our belief that the city is not engaged in the business of operating a community sale since the city does not buy, sell or exchange livestock; nor does it operate or conduct the sale. It merely leases pen facilities and furnishes, for a fee, scales for the weighing of livestock, and therefore Chapter 277 would not be applicable to such city.

You next inquire whether the various persons who lease the above-mentioned facilities would be subject to the provisions of Chapter 277. Again we must refer you to the definition of a community sale as above noted. Whether or not said person would fall within the above definition would depend upon the facts of each particular case and each case would have to be considered upon its own merits. However, we believe that it can be safely said that if such persons regularly use such facilities for the sale, purchase or exchange of livestock, whether directly or indirectly, regularly, or irregularly, and whether by public auction or by private sale, they would be subject to the provisions of Chapter 277, since it would be carried on at an established place in this State.

Thirdly, you inquire whether said law applies to privately owned concentration points and facilities which are small yard loading and weighing facilities used by dealers in feeder pigs. What has previously been stated in answer to questions number one and two would be applicable to question number three with the further note that the term "community sales" does not apply to public or private farm or purebred livestock sales.

Lastly, you inquire whether the community sales law applies to "terminal markets" which are not under federal or state supervision. We understand the term "terminal markets" to be used as referring to stockyards such as are located in Kansas City and St. Louis and this opinion is based upon such an understanding. Section 277.020 exempts from the operation of a community sales law "established markets operating under federal or state regulations." The stockyard facilities such as are maintained in St. Louis and Kansas City are, in fact, to some extent regulated

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by the state and federal governments. See Chapter 276, RSMo 1949 and U.S.C.A., Title 7, Sections 181 to 231. Since such markets do operate under state and federal regulations we are of the opinion that Chapter 277 does not apply thereto. Such an interpretation is in accord with the popular and accepted definition of the term "community sales" and it is doubtful that the Legislature ever intended to extend the provisions of the community sales law to such established markets.

CONCLUSION

It is, therefore, the opinion of this office that the community sales law does not apply to a city which maintains stock pens and scale facilities where the city does not actually operate or conduct sales at such place but merely rents or leases such facilities to others. If the persons who use said facilities are engaged in the business of conducting sales, exchanges or purchases of livestock, whether at regular or irregular intervals and ~~ir~~regardless of whether it is by public auction or private sale, they would be subject to the provisions of the community sales law.

It is the further opinion of this office that the Missouri Community Sales Law does not apply to an established market such as the St. Louis and Kansas City Stockyards which are, to some extent, subject to state and federal regulations.

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

Very truly yours,

John M. Dalton
Attorney General

DDG/LVD/VTL