



**THE ATTORNEY GENERAL
OF TEXAS
AUSTIN, TEXAS**

**PRICE DANIEL
ATTORNEY GENERAL**

May 10, 1948

Hon. D. A. Davidson, Director
Livestock Sanitary Commission
2002 W. T. Waggoner Bldg.
Fort Worth, Texas

Opinion No. V-565.

Re: Authority of Livestock
Sanitary Commission to
purchase metal ear tags
and pay for same out of
an appropriation for dip
material and cattle mark-
ing paint.

Dear Sir:

Reference is made to your letter of April 22,
1948, which reads:

"This Commission has found it necessary in certain phases of disease control to properly identify and designate specific animals. For this purpose there is contemplated the purchase of metal ear tags.

"There is appropriated to the Commission for the biennium ending August 31, 1949, five thousand dollars for dipping material and cattle marking paint. It occurs to us that the word material, as used in the appropriation, embraces the implements or apparatus necessary to do a particular thing—this particular thing being the identification of livestock.

"Cattle marking paint is used for temporary identification, while the metal ear tag is a permanent identification of an animal.

QUESTION: Can the appropriation for dipping material and cattle marking paint be construed to embrace metal ear tags for

proper identification of livestock, and may expenditure for such tags be made out of appropriation for dipping material and cattle marking paint?"

The appropriation to which you refer is Item 15 of the appropriation made to the Commission for the first year of the current biennium (Acts 50th Legislature, p. 885) and reads:

"Dip Material and Cattle Marking Paint
\$5000."

In Conference Opinion No. 2374, dated August 18, 1921, a former Attorney General had under consideration the question of whether an appropriation made for a specific purpose could be expended for another purpose. The opinion held:

"It is the law of this State that no part of the money appropriated by the Legislature can be used by any person charged with its expenditure for any purpose other than the specific purpose named in the appropriation bill. An expenditure for a purpose other than the one for which the money was appropriated would be a misapplication of public funds. The Comptroller would not be authorized to draw his warrant on any fund for any purpose except the purpose named in the Act, and the Treasurer would be without authority to honor a warrant on any fund for any purpose except that named in the appropriation bill."

We are in accord with the views expressed in that opinion.

The Legislature is presumed to have known that cattle branding paint and metal ear tags are used for identification purposes. A metal ear tag cannot be classified as cattle marking paint. The Legislature specifically named such paint as one of the two purposes of the appropriation, but did not so name metal ear tags. It appears to us that if it had considered such paint as a dip material, it would not have specifically named it as

one of the purposes of the appropriation. In view of that fact, we believe it would be a strained construction of the appropriation to hold that a metal ear tag is a "dip material." Therefore, your question is answered in the negative.

Furthermore, you have advised us that metal ear tags are necessary in certain phases of disease control to properly identify and designate specific animals, and are used for permanent identification. The Legislature evidently recognized this fact and appropriated to the Livestock Sanitary Commission \$1,000 for each year of the current biennium for "Control of Contagious Diseases including Supplies." (Acts 50th Leg., p. 885, Item 21). While this Item does not specifically name metal ear tags as one of its purposes, yet the language used therein is sufficient to include such tags. In our opinion this is the proper appropriation from which expenditures may be made for metal ear tags when used for the control of contagious diseases or in aid thereof.

SUMMARY

An appropriation made by the Legislature to the Livestock Sanitary Commission for the purchase of "Dip material and cattle marking paint" may not be legally expended for metal ear tags, for the reason such a tag is neither a dip material nor a cattle marking paint.

Yours very truly,

ATTORNEY GENERAL OF TEXAS

Bruce W. Bryant

By

Bruce W. Bryant
Assistant

BWB:wb

APPROVED:

Price Daniel
ATTORNEY GENERAL