

1971 O. A. G.

OFFICIAL OPINION NO. 20

August 2, 1971

Mr. David L. Smith  
Executive Secretary  
Department of Animal Health  
Room 801—State Office Building  
Indianapolis, Indiana 46204

Dear Mr. Smith:

This is in response to your request for my Official Opinion on the authority of the Indiana Department of Animal Health, operating in cooperation with the Indiana State Police, to establish inspection stations similar to weight stations for the stopping of motor vehicles transporting animals into Indiana, and the examination of the permits and health certificates, if any, under which those vehicles are operating.

ANALYSIS

The Indiana Department of Animal Health (originally known as the Indiana Live Stock Sanitary Board) was created by, and is basically regulated by IC 1971, 15-2-3-1, *et seq.*, as found in Burns' (1964 Repl.), Sections 16-1201, *et seq.* and provides:

“No person shall import any domestic animal into the state unless suitable precautions have been taken to prevent the introduction and spread of contagious or infectious disease in conformance with the rules adopted by the board.”

In conjunction with the above statute, Burns' Section 16-1338, *supra*, which specifies certain of the rule-making powers of the department, empowers the department to make rules concerning:

“The regulation or prohibition of the movement and transportation into, out of, or within the state of domestic animals which are diseased, or suspected to be diseased.”

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Under the above two statutes there can be little question but that the Department of Animal Health has the authority to adopt rules requiring transporters and importers of domestic animals into the State of Indiana to produce the various permits and health certificates that would show that the animals being transported are free from communicable diseases, and that these rules could involve the establishment of certificate inspection stations similar in nature to weight inspection stations.

Unfortunately, neither the department nor its employees are given police powers and thus cannot use the power of arrest to enforce the rules. However, the Legislature took care of that in Burns' Section 16-2501, *supra*, which provides:

"All peace officers within this state shall render assistance to the State veterinarian or his agent, the board or its agent or an agent of the U. S. Department of Agriculture in enforcing the provisions of this Act."

(The next section of the Act makes violation of a rule of the department a misdemeanor.)

The officers and police employees of the Indiana State Police Department are specifically made peace officers in relation to the enforcement of the criminal laws of the state and in performance of such other related duties as are imposed upon them by the laws of the State, IC 1971, 10-1-1-10, as found in Burns' (1965 Repl.), Section 47-855.

Thus, a State Police Officer would have the authority to arrest the driver of any vehicle who either failed to have the proper certificates or failed to stop at the inspection station.

## CONCLUSION

It is, therefore, my official opinion that the Indiana Department of Animal Health *does* have the authority to establish inspection stations and to require motor vehicles transporting domestic animals into the State of Indiana to stop for inspection at those stations, and that the Indiana State Police can arrest those drivers who are transporting animals in violation of the laws of this State or the rules of the department. It could also utilize existing state police weighing stations.