

OPINION
72-6

February 3, 1972 (OPINION)

Mr. Leland R. Miller
Dairy Commissioner
Department of Agriculture

RE: Agriculture - Livestock Dealers Bond - Coverage

This is in reply to your letter of January 10, 1972, enclosing a copy of a letter from the Area Supervisor of the United States Department of Agriculture Packers and Stockyards Administration of date January 5, 1972, with regard to the coverage of the North Dakota Livestock Dealers Bond.

It appears from same that the Office of the General Counsel for the Department of Agriculture is of the opinion that the North Dakota Livestock Dealer's Bond covers purchases of livestock in commerce, and it would appear that you and the area supervisor heretofore mentioned wish to know whether we concur in such opinion.

Section 36-04-05 of the 1971 Supplement to the North Dakota Century Code provides insofar as here applicable:

" * * * The dairy department shall be named as the obligee in each such bond but the bond shall be held for the purpose of protecting and for the benefit of any person selling livestock, wool, or poultry, as the case may be, to the licensed dealer or his agent. Such bond shall be conditioned for:

1. The faithful performance by the dealer of his duties as such;
2. The compliance by the dealer with all of the provisions of this code relating to the purchase of livestock, wool, or poultry, as the case may be;
3. The full and complete payment to the seller for all livestock, wool, or poultry purchased by the dealer; and
4. The full protection of any person who deals with such dealer.

* * *".

A typical livestock dealer's bond submitted pursuant to such requirements provides insofar as here applicable that:

"* * * for the benefit and purpose of protecting any person, and for the benefit of all persons selling livestock to such livestock dealer or his agents, in the penal sum of Ten Thousand Dollars (\$10,000.00) good and lawful money of the United States, for payment of which, well and truly to be made, we, bind ourselves, our heirs, executors, successors and assigns firmly by these presents.

"THE CONDITIONS OF THIS OBLIGATION ARE SUCH, That whereas, the Principal hereof has been licensed as a dealer in Livestock for the license period of 19 --, at ----- North Dakota, pursuant to the provisions of the Laws of the State of North Dakota; pursuant to the provisions of the Laws of the State of North Dakota;

"NOW, THEREFORE, if the said ----- and any, each, and every one of his agents, shall save harmless and shall faithfully perform his duties as a dealer in livestock and shall comply with all of the provisions of the law relating to the purchase of livestock by such livestock dealer and shall pay for all livestock purchased by such dealer, as a dealer in livestock, then in this obligation to become null and void, otherwise to remain in full force and effect * * *"

It would thus be our opinion that the North Dakota livestock dealer bonds, within its specified period of time, territorial are of its and the licenses coverage, within the limits and purposes of said chapter 36-04 of the North Dakota Century Code as amended to date, covers purchases of livestock in commerce.

HELGI JOHANNESON

Attorney General