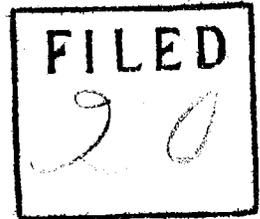


QUARANTINE:

State Veterinarian, under Sec. 14195, U.S. 1939, may quarantine chickens infected with Newcastle disease. The Governor, under Sec. 14207, may issue proclamation quarantining areas in which Newcastle disease is widely disseminated or epidemic. State Veterinarian, or his deputy, may quarantine chickens infected with or which have been exposed to infection by Newcastle disease when offered for sale at a community sale. No authority exists for any state officer to order destruction of chickens.

September 11, 1946



Dr. H. E. Curry  
State Veterinarian  
Department of Agriculture  
Jefferson City, Missouri

Dear Sir:

We acknowledge receipt of your letter of August 1, 1946, requesting an official opinion of this department, and reading as follows:

"It has recently been brought to my attention that symptoms of Newcastle disease have appeared in baby chicks shipped from commercial hatcheries in Missouri. This being a highly infectious disease, it is necessary that prompt measures be taken to prevent its dissemination. Among the recommendations by the National Committee on Newcastle Disease is one that local quarantine of infected flocks be established.

"The question has presented itself to this department as to the extent of its authority, or the authority of any other state official to establish such local quarantined areas. We request an opinion giving us an outline of the authority of any state officials with respect to the establishment of such quarantined areas, and the promulgation of necessary rules and regulations to enforce such quarantine as established.

"As correlative to the question of the authority to establish a quarantine, the question arises as to the liability for the destruction of the flocks in which the disease is found.

As a part of the control measures advocated by the National Committee, destruction of other birds found in the flocks in which affected individual birds are located is advised. With respect to such birds that are not found to be actually infected at the time of imposition of quarantine, an element of salvage will be present, inasmuch as they may be slaughtered and used for human consumption.

"We will further appreciate being advised as to this particular phase of the imposition of the quarantine."

The authority for quarantining chickens infected with or exposed to infection by Newcastle disease is found in the Community Sales Act, Laws of Missouri, 1943, pages 310-315, inclusive, and Sections 14195, 14207, and 14027, R. S. Mo. 1939.

Section 10 of the Community Sales Act, found at page 314, Laws of Missouri, 1943, provides that the State Veterinarian, or his deputy, may order any livestock vaccinated or quarantined when he thinks such action advisable, when such stock is offered for sale at a community sale.

Section 2 of the Community Sales Act provides, in part:

"The term 'livestock' shall mean and include cattle, swine, sheep, goats, and poultry."

From the definition of "livestock" found in Section 2 of the Community Sales Act, it is clear that chickens are included in the provisions of the Act. Under the provisions of Section 10, the State Veterinarian, or his deputy, may quarantine chickens which are infected with or have been exposed to infection by Newcastle disease, when such chickens are offered for sale at a community sale. In the Community Sales Act there is no provision for the State Veterinarian, or his deputy, to order any chickens slaughtered.

Section 14195, R. S. No. 1939, provides, in part, as follows:

"If, upon investigation, said veterinary surgeon shall be satisfied that such live-stock is suffering from or infected, or capable of infecting with or causing what is known as glanders, farcy, tuberculosis, con-

tagious pleuro-pneumonia, Texas fever, rinderpest, foot and mouth disease, or any other dangerous disease of a contagious, infectious or spreading character, against which he may think best to quarantine, he shall immediately quarantine the same by placing it in pens, barns or sheds, or fields, completely separated from other susceptible stock not so diseased or infected, until such diseased stock shall be disinfected or completely recovered, and its release ordered by the state veterinary surgeon or his deputies, or shall have been killed or disposed of as herein-after provided; \* \* \* The said veterinary surgeon may, in his discretion, order owner or owners, or person or persons in charge, to bury or burn carcasses of dead animals, and such persons thereupon shall execute such order as prescribed." (Emphasis ours.)

The question of the quarantine power of the State Veterinarian under Section 14195 depends upon whether or not the term "livestock," as used in this section, includes chickens.

Section 14027, R. S. Mo. 1939, provides, in part:

"\* \* \* The commissioner is hereby clothed with the power of reasonable quarantine in relation to the regulatory laws of the state department of agriculture; and it is further provided, that the power of quarantine in relation to livestock diseases shall include poultry. \* \* \* "

Section 14190, R. S. Mo. 1939, provides that the Commissioner of Agriculture shall appoint the State Veterinary Surgeon. Section 14194, R. S. Mo. 1939, provides that the Commissioner of Agriculture shall cause an investigation preliminary to the imposing of a quarantine under the provisions of Section 14195, above quoted.

The State Veterinarian, when imposing a quarantine under the provisions of Section 14195, R. S. Mo. 1939, is acting for the Commissioner of Agriculture, and the provision in Section 14027, above quoted, that the power of quarantine in relation to livestock diseases shall include poultry applies to the quarantining power regarding livestock provided for in Section 14195, R. S. Mo. 1939, which is one of the regulatory laws of the State Department of Agriculture. Since this is

true, there is power in the State Veterinarian, under the provisions of Section 14195, to quarantine chickens suffering from or infected or capable of infecting with Newcastle disease. However, further sections in Article 11, Chapter 102, R. S. Mo. 1939, in which Section 14195 is found, provide for the appraisal and slaughter only of horses, mules, cattle, hogs, sheep, or goats infected with or capable of communicating certain diseases to other animals. There is no provision in this section for the ordering of the slaughter of chickens. The State Veterinarian does have power, under the provisions of Section 14195, to order the owner of chickens to bury or burn the carcasses of chickens which die from Newcastle disease.

Section 14207, R. S. Mo. 1939, provides as follows:

"The governor, when informed by the State Veterinarian that either contagious pleuropneumonia, rinderpest, foot and mouth disease, maladie du coit, Bang's disease, or any other contagious or infectious livestock disease has become largely disseminated or epidemic among domestic animals throughout any municipality or geographical district in this state, or is found to exist in any herd or herds in this state, may call the commissioner of agriculture and the state veterinarian together, and said commissioner and said veterinarian shall, if deemed necessary to eradicate, or prevent the spread of such disease formulate for the state veterinarian and the county courts rules and regulations under which stock capable of carrying said diseases, or any of them shall be permitted to move to other parts of the state; such rules and regulations shall be subject to the approval of the Governor, who thereupon shall issue his proclamation scheduling and quarantining such localities, and forbidding the carrying or transportation or moving of all domestic animals of the kind diseased from such municipalities or district or county to another, or from one premises to another, or over any public highway or any lot or ground not sufficiently fenced to prevent animals from going through or from being brought into

such infected districts, municipalities or counties except in accordance with the aforesaid rules and regulations. The county court or other legally substituted court of the county in which such infected locality or district shall have been quarantined by the Governor, shall be notified by the state veterinarian, and furnished with copies of said regulations. Said county court shall thereupon comply with said rules and regulations, and issue order to the sheriff to assist said state veterinarian in carrying out the provisions of the same."

Since the rules and regulations formulated for the Governor's approval, under the provisions of Section 14207, are drawn up by the State Commissioner of Agriculture and the State Veterinarian, the provision of Section 14027 which provides that the power of quarantine in relation to livestock diseases shall include poultry applies to the quarantining power provided for in Section 14207, which is one of the regulatory laws of the State Department of Agriculture. There is no provision in Section 14207 for ordering the slaughter of chickens, but the Governor may, under such section, issue a proclamation quarantining a municipality or geographical district of the state if Newcastle disease becomes largely disseminated or epidemic among chickens throughout any municipality or geographical district of the state.

#### CONCLUSION

Under the provisions of Section 14195, R. S. Mo. 1939, the State Veterinarian may quarantine chickens infected with Newcastle disease, and may order the owner to bury or burn the carcasses of chickens which have died from Newcastle disease. Under the provisions of Section 14207, R. S. Mo. 1939, the Governor may, by proclamation, quarantine areas in which chickens are infected with Newcastle disease. Under the provisions of the Community Sales Act, found at page 310, Laws of Missouri, 1945, the State Veterinarian, or his deputy, may quarantine chickens which are infected with or have been exposed to infection by Newcastle disease, which are offered for sale at a community sale. There is no statutory authority

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for any state officer to order the slaughter of chickens infected with Newcastle disease.

Respectfully submitted,

C. B. BURNS, Jr.  
Assistant Attorney General

APPROVED:

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J. E. TAYLOR  
Attorney General

CBB:HR