

STATE OF KANSAS

Office of the Attorney General

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Curt T. Schneider
Attorney General

December 8, 1976

ATTORNEY GENERAL'S OPINION NO. 76-359

Dr. Gerald D. Gurss
Livestock Commissioner
Kansas Animal Health Department
Mills Building, 4th floor
109 West Ninth Street
Topeka, Kansas 66612

Re: Livestock and Domestic Animals--Quarantines--Records
Open to Public

Synopsis: Pursuant to the provisions of the Public Records Law, K.S.A. 45-201, et seq., there is no requirement that the Kansas Animal Health Department or the Livestock Commissioner furnish upon request to interested citizens copies of all specific brucellosis quarantine orders placed against particular herds of cattle. This opinion does not prohibit the Kansas Animal Health Department or Livestock Commissioner from voluntarily furnishing or permitting inspection of such quarantine orders.

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Dear Mr. Gurss:

You have requested my opinion as to whether the Kansas Animal Health Department must furnish copies of specific quarantine orders upon request by a citizen pursuant to the Public Record Law, K.S.A. 45-201, et seq. By way of background, the factual setting involves the selling of cows to a dairy producer in the State of Oklahoma. The purchaser has not made complete payment for these animals, due

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to the fact that he claims the animals were infected with brucellosis and that the herd was under quarantine, due to this disease, at the time they were purchased.

K.S.A. 45-201 provides:

"All official public records of the state, counties, municipalities, townships, school districts, commissions, agencies and legislative bodies, which records by law are required to be kept and maintained, except those of the juvenile court which shall be open unless specifically closed by the judge or by law, adoption records, records of the birth of illegitimate children, and records specifically closed by law or by directive authorized by law, shall at all times be open for a personal inspection by any citizen, and those in charge of such records shall not refuse this privilege to any citizen."

In reference to the quarantine of diseased animals, K.S.A. 47-610 states in pertinent part:

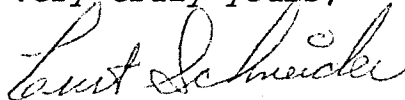
"It shall be the duty of the state livestock sanitary commissioner to protect the health of domestic animals of the state from all contagious or infectious diseases and for this purpose he is hereby authorized and empowered to establish, maintain and enforce such quarantine, sanitary and other regulations as he may deem necessary."

Rules and regulations regarding bovine burcellosis have been promulgated pursuant to K.A.R. 9-2-1, et seq. Examination of these rules and regulations reveals no specific requirement that the livestock commissioner maintain or keep specific quarantine orders. Furthermore, research into Article 6 of Chapter 47 of the Kansas Statutes Annotated also reveals no specific provision mandating that the livestock commissioner keep and maintain a record, journal or ledger of specific quarantines placed upon livestock already within the State of Kansas or to be exported therefrom. Thus, I am constrained to conclude that pursuant to the provisions of the Public Records Law, K.S.A. 45-201, et seq., there is no requirement

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that the Kansas Animal Health Department or the Livestock Commissioner furnish upon request to interested citizens copies of all specific brucellosis quarantine orders placed against particular herds of cattle. This opinion does not prohibit the Kansas Animal Health Department or Livestock Commissioner from voluntarily furnishing or permitting inspection of such quarantine orders, but it is not required by law.

Very truly yours,



CURT T. SCHNEIDER
Attorney General

CTS/HTW/cgm