

86-00170
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MAR 3 1986

Honorable Albert McDonald
Commissioner
Department of Agriculture
and Industries
Montgomery, Alabama 36193

Department of Agriculture and
Industries - Investigation -
Livestock - Arrests.

There are no special statutory provisions allowing livestock inspectors to approve bonds and release persons arrested for violation of laws pertaining to livestock as is done by arresting officers for misdemeanor traffic violations.

Dear Sir:

Your request for an official opinion of the Attorney General under date of January 30, 1986 is as follows:

"Livestock theft investigators, empowered as peace officers under the provisions of Section 2-2-14, Code of Alabama (1975), working under me, have run into difficulty in enforcing Alabama livestock sanitary and related laws, especially involved in transporting livestock in interstate and intrastate throughout Alabama.

"Under Section 2-15-155, Code of Alabama (1975), all livestock brought into Alabama must be accompanied by a certificate of health. Violation of this statute under Section 2-15-174, Code of Alabama (1975), is a misdemeanor.

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"When a truck which is, in many times, hauling at least 100 head of livestock found by my investigators to be in violation of the above statute, the investigator is beset with problems. It is easy to arrest the driver and take him to jail, but then the livestock in the truck end up our responsibility.

"Also persons who haul livestock for hire in Alabama under Section 2-15-40, et seq., Code of Alabama (1975), are required to be licensed and display a permit plate. Again, if a commercial hauler is found to be in violation of the above statute, his arrest causes any livestock which he is hauling to be our responsibility.

"As you are aware, many violations especially traffic violations in Alabama are handled by the arresting officer issuing a citation or 'ticket' and allowing the violator to post a bond on the spot or even be released on his own recognizance. I have been informed that game and fish wardens, revenue officers and Public Service Officers, along with officers arresting for traffic violations are today utilizing arrest citations and allowing bond of some sort to be made on the spot. The ability of Department of Agriculture and Industries' livestock theft investigators to utilize the procedure presently in use by the Departments named above would be of great benefit to them. Otherwise it is practically impossible for this Department to adequately enforce our laws as set out above without having livestock holding facilities available for use throughout the State.

"I am requesting an official opinion from you on the question of whether our livestock investigators, appointed under Section 2-2-14 above may, under the law, issue citations of arrest (tickets) for misdemeanors, and set the bond or bail, to include appearance on one's own recognizance, at the time of the issuance of the citation."

I regret that I find no provision of law which would permit your livestock investigators to set the bond and release the arrestee as described in the last paragraph of your inquiry. To do so would in my opinion require legislation.

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In the case of misdemeanor traffic offenses or cases involving laws pertaining to motor vehicles contained in Title 32 of the Code of Alabama, 1975, the statutes provide for the arresting officer to approve the arrestee's written bond and release him until he appears in court or makes other arrangements for payment of his fine. Sections 32-1-4 and 32-5-310, Code of Alabama, 1975. Morton v. State, 452 So.2d 1361. Daniels v. State, 416 So.2d 760. Mitchell v. State, 391 So.2d 1069.

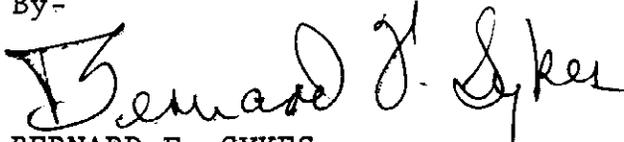
The Uniform Traffic Ticket is designed to contain a section whereby the person arrested may sign and promise to appear in court at the time and place designated. Rule 19, Alabama Rules of Judicial Administration. If he fails to do so these rules provide for increasing the fine and issuance of a supplemental warrant. Rule 19(C)(2).

These provisions as stated apply only to traffic violations or violations of laws relating to motor vehicles and not to the offenses described in your inquiry.

Very truly yours,

CHARLES A. GRADDICK
ATTORNEY GENERAL

By-



BERNARD F. SYKES
ASSISTANT ATTORNEY GENERAL

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