

STATE OF MISSISSIPPI



JIM HOOD  
ATTORNEY GENERAL

OPINIONS  
DIVISION

July 19, 2019

Andy Gipson, Commissioner  
Mississippi Department of Agriculture and Commerce  
Post Office Box 1609  
Jackson, Mississippi 39215-1609

Re: Mississippi Agricultural Theft Bureau Investigators

Dear Commissioner Gipson:

Attorney General Jim Hood is in receipt of your opinion request and has assigned it to me for research and reply.

### Background and Issues Presented

Your request states:

The Mississippi Agricultural Theft Bureau ("MATB") is a division of the Department and is composed of certified law enforcement investigators responsible for enforcement of the laws administered by the Department, including, but not limited to, agriculture-related crimes. My request relates to the interpretation of Section 69-29-1 of the Mississippi Code and the duties of the MATB. Section 69-29-1(1)(d) specifies that MATB investigators "shall perform only those duties described in Section 69-29-1(2) and shall not be assigned any other duties. . . ."

Additionally, Section 97-17-53 is the livestock larceny statute, a crime which MATB investigates. Section 97-17-53(1)(c) refers to Section 409 of the Packers and Stockyards Act, 1921, 7 U.S.C.S. Section 228b, which provides for prompt payment in the purchase of livestock. Failure to abide by the prompt payment provision is a prima facie evidence of fraud or misrepresentation. I understand that your office does not interpret federal law; however, since this federal law is included in the state statute, it appears to be relative to this inquiry. From time to time, the MATB

investigators have been requested to collect payments or notify buyers of delinquent accounts, pursuant to Section 97-17-53(1)(c). Is it the duty of the MATB investigators to collect payments or to notify buyers of delinquent accounts, pursuant to law?

### Response

As you mention in your request, Section 69-29-1(2) of the Mississippi Code deals with the powers, duties and authority of the MATB investigators. Section 69-29-1(2) states, in pertinent part:

(2) The director appointed under this section and the investigators employed under this section shall have the following powers, duties and authority:

\* \* \*

(b) To enforce all of the laws of this state enacted for the purpose of preventing the theft of livestock, poultry, timber and agricultural, aquacultural and timber products and implements; to make investigations of violations thereof and to arrest persons violating same;

## OFFICIAL \* \* \* OPINION

(h) To investigate, prevent, apprehend and arrest those persons anywhere in the state who are violating any of the laws administered by the Department of Agriculture and Commerce, including, but not limited to, all agriculture-related crimes. . . .

Miss. Code Section 69-29-1(2). Pursuant to this section, the duties of the MATB investigators include investigating and enforcing the laws administered by the Department of Agriculture and Commerce. Section 97-17-53 of the Mississippi Code is one of those statutes and deals with the theft of livestock. Section 97-17-53(1)(c) states:

(c) Obtaining livestock from a commission merchant or livestock owner by representing that prompt payment will be made pursuant to Section 409 of the Packers and Stockyards Act, 7 USCS Section 228b, and failing to make prompt payment in accordance therewith, shall constitute prima facie evidence of fraudulent conduct, practices or representation.

Although Section 97-17-53(1)(c) mentions Section 409 of the Packers and Stockyards Act, 7 USCS Section 228b, it only does so in order to set forth conduct that would constitute evidence of fraud. This section does not impose any additional duties on the MATB investigators outside of their duty pursuant to Section 69-29-1(2) to adequately investigate and enforce Section 97-17-53. There are no statutes requiring the MATB investigators to collect payments nor to notify buyers of delinquent accounts.

Andy Gipson, Commissioner  
July 19, 2019  
Page 3

If we may be of further assistance, please advise.

Sincerely,

JIM HOOD, ATTORNEY GENERAL

By:



Emiko Hemleben  
Special Assistant Attorney General

OFFICIAL OPINION