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1. HORSE MEAT—INTENDED FOR HUMAN CONSUMPTION OR NOT—MAY BE LAWFULLY STORED IN COLD STORAGE WAREHOUSES IN OHIO.
2. HORSE MEAT NOT INTENDED FOR HUMAN CONSUMPTION MAY BE STORED IN COLD STORAGE LOCKERS AT LOCKER PLANTS AFTER INSPECTION AND APPROVAL BY REPRESENTATIVES OF BUREAU OF ANIMAL INDUSTRY, UNITED STATES DEPARTMENT OF AGRICULTURE OR REPRESENTATIVES OF DEPARTMENT OF AGRICULTURE OF THIS STATE—MANDATORY MEAT SHALL BEAR LABEL OR TAG IN LETTERS NOT LESS THAN THREE-EIGHTHS INCHES IN HEIGHT, PLACED IN CONSPICUOUS MANNER STATING SUCH HORSE MEAT IS NOT INTENDED FOR HUMAN CONSUMPTION.

## SYLLABUS:

1. Horse meat, whether intended for human consumption or not, may lawfully be stored in cold storage warehouses in this state.
2. Horse meat not intended for human consumption may be stored in cold storage lockers at locker plants only after the same has been inspected and approved either by representatives of the Bureau of Animal Industry of the United States Department of Agriculture or the representatives of the Department of Agriculture of this state and, in addition thereto, only if the same bears a label or tag on which, in letters not less than three-eighths of an inch in height placed in a conspicuous manner, it is stated that such horse meat is not intended for human consumption.

Columbus, Ohio, January 8, 1949

Hon. Frank N. Farnsworth, Director of Agriculture  
State Office Building  
Columbus, Ohio

Dear Sir:

I have before me your communication requesting my opinion and reading as follows:

"This department would like your opinion on the storing of horse meat in lockers and cold storage warehouses in the State of Ohio.

"The following sections of law are what the department bases its regulations on:

"Section 1177-12 gives the Director authority to establish standards of quality, purity and strength for foods when such standards are not otherwise established by any law of this state.

"Section 1155-25 says food for other than human consumption shall not be stored in chill room, sharp freeze room or locker room, except such items of animal or vegetable matter as may have been inspected and approved by representatives of the Bureau of Animal Industry of the U. S. Department of Agriculture. It also says foods not intended for human consumption shall bear a label or tag bearing plainly and conspicuously in letters not less than three-eighths of an inch in height the words 'Not for human consumption.'

"Regulation 136 (b) specifically says horse meat is not classified in the definition of 'meat.' Regulation 172 (d) says the term 'meat' shall mean the properly dressed flesh derived from cattle, from swine, from sheep or from goats, but is restricted to horse meat.

"We cannot find any section of law that prohibits the sale of horse meat for human consumption.

"The sections of law and regulations are confusing and before we start prosecution would like your opinion in this matter."

The law governing the cold storage of food and the sale thereof for both human consumption and other than human consumption is found in Sections 1155-1 to 1155-28, inclusive, General Code.

Sections 1155-1 to 1155-19, General Code, inclusive, comprise one act and deal with the storage of food in cold storage warehouses. This

act became effective in 1917 (107 O. L. 594). The act providing for the storage of food in cold storage locker plants (120 O. L. 212) became effective in 1943 and is codified as Sections 1155-20 to 1155-28, inclusive, of the General Code. Since the law governing the cold storage of food is divided into two acts, one dealing with cold storage warehouses and the other with locker plants, each act will be considered separately.

An examination of the sections comprising the cold storage warehouse act discloses that the types or kinds of meats and food products that may be kept in cold storage are not specifically named or designated, but throughout the act the use of the term "food" is employed. This term is defined for the purposes of the act in Section 1155-3, General Code, as follows:

"The term 'food' as used in this act, shall mean the fresh flesh of animals, and fresh products therefrom, the fresh flesh of fowls, fish, eggs and butter, which have been stored in a cold storage warehouse."

Sections 1155-10 and 1155-12, General Code, are also pertinent to your question and provide:

Section 1155-10, General Code.

"It shall be unlawful for any person, firm or corporation to place in any cold storage warehouse, to keep therein, or to sell, offer or expose for sale, any diseased, tainted, or otherwise *unwholesome* food, or to place in cold storage any slaughtered animals or parts thereof unless the entrails and other offensive parts have first been properly removed." (Emphasis added.)

Since the definition of "food" above quoted includes the flesh of horses and inasmuch as the only prohibition in Section 1155-10, General Code, is against the storage of unwholesome food, it is apparent that unless the horse meat can be said to be unwholesome, there is no inhibition against its storage in cold storage warehouses.

I come, then, to the question of whether or not horse meat may be stored in locker plants.

The pertinent sections to be considered in connection with said question are Sections 1155-20 and 1155-25 of the General Code, which in so far as material hereto read:

Section 1155-20, General Code.

"When used in this act (General Code Sections 1155-20 to 1155-28), unless the context otherwise requires:

"'Food means all articles used for food, drink, confectionery

or condiment by man, whether simple, mixed or compound, and any substance used as a constituent in the manufacture thereof.

\* \* \*

Section 115 -25, General Code.

“Food for other than human consumption shall not be stored in the chill room, aging room, sharp freeze room or locker room of any locker plant or branch locker plant, except such items of animal or vegetable matter as may have been inspected and approved by representatives of the bureau of animal industry of the United States department of agriculture or representatives of the department of agriculture of this state. Foods not intended for human consumption shall bear a label or tag bearing plainly and conspicuously in letters not less than three-eighths of an inch in height the words ‘not for human consumption.’”

It will be noted from the above that unless the food stored in a locker plant is for human consumption, it shall have been inspected and approved by representatives of the Bureau of Animal Industry of the United States Department of Agriculture or representatives of the Department of Agriculture of this state, and further, that any food not intended for human consumption so stored must bear a label or tag plainly stating, in letters of not less than three-eighths of an inch in height, that said food is not for human consumption.

In view of the above, and in specific answer to your questions, you are advised that:

1. Horse meat, whether intended for human consumption or not, may lawfully be stored in cold storage warehouses in this state.

2. Horse meat not intended for human consumption may be stored in cold storage lockers at locker plants only after the same has been inspected and approved either by representatives of the Bureau of Animal Industry of the United States Department of Agriculture or the representatives of the Department of Agriculture of this state and, in addition thereto, only if the same bears a label or tag on which, in letters not less than three-eighths of an inch in height, placed in a conspicuous manner, it is stated that such horse meat is not intended for human consumption.

Respectfully,

HUGH S. JENKINS,  
Attorney General.