

Stallions, License Certificate for Five Pure Top Cross Stallions. License Certificate, for Stallions Having Five Pure Top Crosses.

The license certificate issued under Section 8, of Chapter 108, Laws of 1909, for stallions having five pure top crosses should be modified so as to show that such horses are not registered in stud books recognized by the department of agriculture.

Helena, Montana, February 17, 1910.

Prof. R. W. Clark,
Secretary, Stallion Registration Board,
Bozeman, Montana.

Dear Sir:—

I am in receipt of your letter requesting an opinion upon the following proposition:

A party in this state claims that he has a stallion having five pure top crosses, and has applied for a pure breed license certificate, under section 8, of chapter 108, laws of 1909. You state that stallions or jacks having five pure top crosses cannot be registered in stud books recognized by the United States Department of Agriculture, and that the United States Department of agriculture does not recognize and record stallions having five pure top crosses.

Section 8, of said chapter 108, provides for the issuance of license certificates, after proper examination, for stallions or jacks, whose sire and dam are of pure breed, and a pedigree of which is registered in a stud book recognized by the United States Department of Agriculture, or in any American stud book or registry association that recognizes and records stallions or jacks that have five pure top crosses, and then sets out a form for the issuance of such license certificates.

There is a conflict between the provisions of said section 8 and the form of the certificate therein set out.

If it is a fact that the department of agriculture of Washington, D. C., does not recognize stud books which record stallions that have five pure top crosses, in our opinion the owner of a stallion in this state that has five pure top crosses is entitled to a license certificate, after satisfactory examination, under said section 8. But, as the form of the certificate, as provided for in said section, is merely directory and relates more to the general form of such certificate than it does to the matter therein contained, it is my opinion that in issuing such a certificate you should strike out the following words, to-wit:

“is registered in a stud book recognized by the department of agriculture, Washington, D. C.,”

By making the above change in said certificate you still substantially comply with the form thereof, as prescribed by the statute, and at the same time recite the facts as they actually exist, and therefore do not issue a certificate that is false and misleading on its face.

See opinion to R. W. Clark, dated March 2, 1910.

Very truly yours,

ALBERT J. GALEN,

Attorney General.