

Bounty Laws, Who Entitled to Receive Under. Skins Presented for Bounty, Who Should Inspect. Sheriff, Duty of to Inspect Skins at County Seat. County Seat, Skins Presented for Bounty Must Be Inspected at. Sheriff, Duties of. Number Fixed by Law.

A person presenting a skin or skins would be entitled to bounty upon them provided the requirements of the law had been fulfilled. Under the present law the skins presented for bounty, must be inspected by the sheriff or his deputy at the county seat. Skins taken from animals in one county may be presented to the sheriff at the county seat nearest to the locality where the animals were killed.

Sheriff not authorized to appoint special deputy exclusively for examining skins under bounty law.

May 1st, 1913.

Hon. C. R. Tisor,
County Attorney,
Miles City, Montana.

Dear Sir:

I beg to acknowledge receipt of your letters of April 24th and 28th respectively, propounding some questions as to the bounty laws. Upon the first question presented in your letter of April 24th, as to whether a man presenting skins of animals which were killed prior to the passage of Chapter 91 of the Session Laws of 1913, and in

contemplation of the law, as it then was, would be entitled to receive bounty upon them, presenting the scalp and the strip down the back. Upon examination and comparison of the two laws, I do not find that any material change was made as to what portion of the dead animal must be presented for inspection. Sec. 1905 of the Revised Codes is in part as follows:

"Any person killing any of the aforesaid animals, except mountain lions, to obtain bounty thereon, shall within sixty days of the date of the killing except (exhibit) the skin or skins of the said animal or animals including the tail and the skin from the entire head, including the ears thereof."

Chap. 91, Session Laws of 1913, amending Sec. 1906 of the Revised Codes, reads in part as follows:

"It shall be the duty of the sheriff of any county in this state, and of all under sheriffs and deputy sheriffs located at the county seat but not elsewhere to receive and to examine all skins and pelts presented for bounty within their respective counties. The said sheriff shall receive ten cents for each skin examined, said amount to be paid by the owner of the skin. Each sheriff, under sheriff and deputy sheriff, shall, to prevent fraud, minutely examine each skin presented, and should such examination disclose that the scalp and ears with the skin from the entire head of such animal or animals have not been severed, punched, patched, or in any manner marked, he shall there, in the presence of the person presenting such skin, mark such skin by severing the skin from the head, including the ears, and then redeliver the skin or skins to the person presenting the same, and shall require the following affidavit from the claimant."

A comparison of the language of this amended section will show that the duty and procedure placed upon the sheriff is precisely the same as that formerly performed by the bounty inspector. No intent seems to be shown to amend Sec. 1905 of the Revised Codes, except as to who shall make the inspection. It is therefore my opinion that a person presenting a skin or skins, that is: "the tail and the skin from the entire head, including the ears thereof," would be entitled to the bounty upon them if the sheriff's examination discloses that the scalp and ears with the skin from the entire head of such animal had not been severed, punched, patched, or in any way marked, and providing also that the party presenting the skins for the collection of bounty had fulfilled the requirements of the law in other respects.

As to the second question presented in your letter, to-wit:

"Could he (the sheriff) appoint a special deputy and permit the special deputy to make inspection, when as a matter of fact the deputy was used for no other purpose?"

Chap. 119 of the Session Laws of the Eleventh Legislative Assembly, amending Sec. 3119 of the Revised Codes of Montana, pre-

scribed the number of deputies allowed the sheriffs in the different counties:

"The whole number of deputies allowed the sheriff, is one undersheriff and not to exceed the following number of deputies." (Enumerating number of deputies for the counties of various classes.)

This duty to inspect skins presented for bounty is a duty added to those of the sheriff enumerated in Sec. 3010 of the Revised Codes. Sec. 2965 is as follows:

"Whenever the official name of any principal officer is used in any law conferring power, imposing duties or liabilities, it includes his deputies."

The deputies mentioned in this last quoted section are those contemplated by the law as amended by Chap. 119 of the Session Laws of the Eleventh Legislative Assembly. It is therefore my opinion that the duty to inspect skins presented for bounty imposed upon the sheriff, under sheriff and deputy sheriffs by Chap. 91 of the Session Laws of the Thirteenth Legislative Assembly were intended by the Legislature to be fulfilled by the sheriff and his deputies allowed by law, and that the sheriff would not be authorized, under the law, to appoint a special deputy to attend exclusively to the examination of skins presented for bounty.

As to the question raised in your letter of April 28th, 1913, as to what sheriff skins must be presented for examination, I will say they should be presented to the sheriff nearest the locality where the animals were killed or the sheriff of the county in which they were killed. Chap. 91 of the Session Laws of the Thirteenth Legislative Assembly places the duty of examining "all skins and pelts presented for bounty within their respective counties before the sheriff of any county in this state." The language does not seem to imply that the skins so presented must be taken from animals killed within the county of the particular sheriff to whom they are presented. It is, therefore, my opinion that skins taken from animals killed in one county may be presented to the sheriff at the county seat nearest the locality where the animals were killed, and that it is the duty of such sheriff to examine the skins and certify as to the number thereof, whether the animals from which the skins were taken were killed within his county or not, providing, of course, the necessary affidavit of the claimant is presented as required by law.

Very truly yours,

D. M. KELLY,
Attorney General.