

Stallions, Shipping of Unsound. Unsound Stallions, Shipping of. Railroad Company, Liability of for Shipping Unsound Stallions. Liability, of Railroad Company Shipping Unsound Stallions.

The purpose of the stallion registration law is to keep unsound stallions out of the State. Affidavits should be taken from persons shipping unsound stallions, giving description of the particular unsoundness.

Railroad companies should be notified that they will be held liable if they transport any such unsound animal without the certificate required by Sec. 16, Chap. 108, Laws Eleventh Legislative Assembly.

June 9th, 1913.

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

Dear Sir:

I beg leave to acknowledge receipt of yours of the 31st ult., in which you submit the following question:

"If a stallion dealer furnishes an affidavit to the effect that his stallions are unsound, but that they are not intended for breeding purposes, is he exempt from complying with Sec. 6 of the Stallion Law?

While a strict construction of Sec. 6 of Chap. 108, Session Laws of the Eleventh Legislative Assembly might excuse an importer from obtaining a certificate provided for in said Sec. 6, if the stallion was not intended for breeding purposes, the whole intent of the law, as shown by Sec. 16, is to keep out of the state unsound stallions, as the same are defined by Sec. 4 of the act. In accordance with

the spirit of livestock care and sanitation, this might be covered by Sec. 1888 of the Revised Codes.

I agree with you that this is an apparent scheme to evade the law. You are therefore advised to take affidavits from persons intending to ship in unsound stallions, getting a description and definition of the particular unsoundness with which the animal is afflicted, and then notify the railroad companies that the importer intends to ship in unsound animals, and that they will be held liable under Sec. 16 of the act if they transport any animal without the certificate therein required. This affidavit and the taking thereof is in nowise to be construed a permission from your board, or anyone else, to ship such animals into the state.

In connection with this subject you are referred to opinions heretofore rendered you by this office and found in the Opinions of Attorney General, 1908-10, at pages 197, 333, 340, 452, 414 and 260; also Opinions of Attorney General, 1910-12, at pages 212 and 440.

Yours very truly,

D. M. KELLY,
Attorney General.