

Stock Inspection, by Sheriff. Sheriff, Not Duty of to Inspect Cattle. Cattle, Sheriff Not Required to Inspect. Horses, Sheriff Required to Inspect When Necessary.

There is no provision in the law for shipments of cattle to be inspected by a sheriff. The sheriff has no authority to inspect same. Such cattle should be inspected by a stock inspector of the state, subject to certain exceptions. Horses before being removed from the state must be inspected by either a stock inspector or a sheriff, under the provisions of Sec. 1804, et seq. Revised Codes.

March 25th, 1913.

Hon. D. W. Raymond,
Secretary State Board of Stock Commissioners,
Helena, Montana.

Dear Sir:

I am in receipt of your favor asking for an opinion from this department upon the question as follows:

"Is it compulsory for the sheriff to inspect stock when notified to do so by a shipper?"

Under the provisions of Secs. 1812 to 1814, inclusive, of the Revised Codes, it is made the duty of the person removing cattle from this state, immediately before shipment, to cause same to be inspected by a stock inspector of the state, subject to certain exceptions. There is no provision for the shipments of cattle to be inspected by a sheriff, and therefore the sheriff has no authority to inspect the same, and it is not his duty to inspect the same. However, under the provisions of Sec. 1796 et seq. the board of stock commissioners might appoint a sheriff as stock inspector, in which event he would have authority to inspect cattle shipments.

Under the provisions of Sec. 1804 et seq., R. C., all persons removing horses from the state, immediately before shipment, must cause the same to be inspected by a stock inspector or sheriff of the county from which the stock is to be removed. Under the provisions of Sec. 1805, R. C., it is the duty of the stock inspector or the sheriff of the county from which such animals are to be taken to inspect the same, and in my opinion the sheriff would be derelict in his duty if he should fail or refuse to make the inspection after being properly notified.

The question naturally arises as to whether or not the stock inspector or the sheriff has the preference in making the inspection. Upon this point this department upon May 20th, 1912, rendered an opinion to you in this language:

"There is no preference given by these sections to a stock inspector over a sheriff, and either a stock inspector or a sheriff of the county has authority to make the inspection. However, if any controversy should arise between a stock inspector and a sheriff it would certainly be advisable for the sheriff to concede to the stock inspector the preference, as it is only incidentally the business of the sheriff to make such inspection, while the office of stock inspector is created directly for this purpose."

The foregoing opinion is hereby reaffirmed, and in this connection I would further suggest that whenever calls are made upon a sheriff for the inspection of horses that either the shipper or the sheriff should make a reasonable effort to ascertain if the stock inspector can make the inspection without unreasonable delay. If he can, then the inspection should be made by the stock inspector. However, if the stock inspector cannot make the inspection without great delay, that then it is the duty of the sheriff to inspect.

Very truly yours,

D. M. KELLY,
Attorney General.