

**Stallion Law, Construed. Owner of Stallion, Duty as to Lien for Service. Service by Stallion, Lien on Mare Must be Filed. Lien, on Mare Served.**

To criminally prosecute the owner of a mare served by a stallion, the owner of the stallion must have a separate lien on record for each mare served.

April 15, 1915.

State Stallion Registration Board,  
Bozeman, Montana.

Gentlemen:

I am in receipt of your communication under date the 9th inst. enclosing an enquiry from Hon. Grant Bakewell, Justice of the Peace. The question put by Mr. Bakewell, and which you ask our opinion on is,

“Must a stallion owner have a separate lien filed on record for each particular mare served in order to prosecute a mare owner criminally, who disposes and sells a mare after service and after the mare is in foal?”

The provisions of law relating to this question are found in Chap. 45 of the Session Laws of the thirteenth Legislative Assembly. After providing for the filing of a notice of lien with the county clerk this act provides;

“The owner of any mare so served, or foal of any mare resulting from such service, upon which there exists a lien on file for stallion service, as herein provided, who shall sell, dispose of \* \* \* \*”

In so far as it makes the selling of mares or foals a misdemeanor, this chapter is a penal statute, and must be strictly construed; that is, it must clearly appear that the person accused is within the meaning of the statute. I am of the opinion therefore, that the interpretation of the county attorney is correct, and that it must appear that a notice of lien must be filed for the particular mare, the sale of which is the basis of the accusation. There does not seem to be any provision for the filing of a lien collectively on several mares at once, without a separate description of each.

Yours very truly,

D. M. KELLY,

Attorney General.