

Brand, Cancellation of How. State Board of Stock Commissioners, Power to Cancel Brand. Power, Board of Stock Commissioners to Cancel Brand. Inspection, of Stock Shipped. Stock, Inspection of When.

The State Board of Stock Commissioners are not vested with authority to cancel a brand once issued, at least without notice and hearing.

Inspection of stock before shipment is required, unless shipped out of the state under the provisions of Section 1812, Revised Codes.

May 25, 1916.

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

Dear Sir:

I am in receipt of your letter submitting the question:

"As to the authority of the State Board of Stock Commissioners to cancel the record of a brand after having issued a certificate of registration?"

I am also in receipt of your further letter of May 22nd, submitting the question:

"As to whether stock shipped from one county to another within this state must be inspected prior to shipment?"

1. The law relating to marks and brands is found in Section 1790, et. seq. Revised Codes, and Chapter 21, Laws of 1915. Under this law it is the duty of the recorder of marks and brands, when application is made therefore, to record a mark or brand not theretofore recorded, and to issue to the owner a certified copy of such record. This certified copy is prima facia evidence of ownership until it is cancelled or set aside by some court or tribunal having authority so to do. No such authority seems to be vested by the law in the State Board of Stock Commissioners, and in not any event could it be done on an ex parte application, but only after a hearing, or an opportunity to be heard; and in case of a contest as to the ownership of a brand, the courts furnish the only avenue of determination.

2. Under the provisions of Chapter 131, Laws of 1915, stock must be inspected before shipment, unless shipped out of the state, and then the provisions of Section 1812, Revised Codes, apply.

Yours very truly,

J. B. POINDEXTER,
Attorney General.