

**Opinion No. 305.****Livestock—Bulls—Range—  
Castration.**

HELD: Any person finding a pure bred bull of recognized beef type running at large on the open range between January 1 and July 1 has the right to castrate such bull.

June 26, 1936.

Mr. Paul Raftery  
Secretary, Montana Livestock  
Commission  
The Capitol

You have submitted the question

whether or not a party has the right to castrate a pure bred bull of recognized beef type running on the open range between January 1 and July 1.

Sections 3403 and 3406 of the Revised Codes provide:

"3403. It shall be unlawful for any person or persons, firm, company, or corporation to turn upon, or allow to run at large on the public highways, open range, or national forest reserve within the State of Montana any bull other than a pure-bred bull of a recognized beef type; and no bull shall be turned upon, or allowed to run at large upon any such public highways, open range or national forest reserve between January 1st and July 1st of each and every year.

"3406. Any bull found running at large on the open range or national forest reserve in violation of the provisions of this act may be caught and castrated by any person finding such a bull; provided, any pure-bred dairy bull found running at large may be taken up and party holding bull shall notify the owner in person, and if the owner of such bull does not take possession of said bull within twenty-four hours after being notified, party holding such bull may castrate him."

Reading these two sections together as they now stand requires an answer in the affirmative to your question. Is there anything in the history of these two sections requiring a different answer? Section 3403, as originally enacted in Section 1, Chapter 62, Laws of 1917, made it unlawful to allow any bull to run at large on the open range or the national forest reserve, except a pure-bred bull of a recognized beef type. The penalty (Section 2, Id.) was castration after such notice as provided therein. As the law was originally enacted pure-bred beef bulls were excepted. In 1919 the law was again amended (Chapter 42, Laws of 1929.) Section 1 remained unchanged except that the definition of "pure bred" was omitted. Section 2 was changed so as to require notice to the owner of a pure-bred dairy bull. Again in 1925 (Chapter 53, Laws of 1925), Section 1 was amended to read as it now appears in Section 3403. Section 2 was unchanged. The only conclusion we can come to is that the

legislature intended to permit the castration of any bull running at large in violation of Section 3403, except that twenty-four hours' notice in person to the owner of a pure-bred dairy bull is required. If the legislature had intended otherwise they would have amended Section 3406 when 3403 was last amended. On the other hand, leaving 3406 as it is, was the natural way to accomplish its intention to permit castration of all bulls running at large in violation of Section 3403.

We must therefore answer your question in the affirmative.