

## Opinion No. 16-1758

March 14, 1916

**BY:** FRANK W. CLANCY, Attorney General

**TO:** Mr. Irvin Ogden, Sr., Roy, New Mexico.

**Construction of Section 7, Chapter 65, Laws of 1915, in regard to stallions.**

### OPINION

{\*330} I have just received your letter asking for a construction of Section 7 of Chapter 65 of the Laws of 1915. Examination of this statute appears to make it an offense to keep any stallion or jack "for sale, transfer, exchange or public service," unless the owner obtains a certificate from the stallion registration board. Provision is made for two forms of certificates only, for "pure bred" animals and one for "grade" animals. In order to obtain a certificate of a "pure bred" animal there must be presented a certificate of registration issued by one of the stud books and associations recognized by the Department of Agriculture, a list of which is inserted in the act. That seems to be the only evidence permissible that the animal is of pure breeding.

The statute defines "grade" as an animal whose owner presents the affidavit of two persons that the animal has either a sire or dam of pure breeding.

The effect of this is to forbid the keeping for public service of any animal that is not registered in one of the stud books mentioned in the statute, or which has not a sire or dam so registered. There must be great numbers of valuable animals which would be excluded by this classification.

The section to which you refer reads as follows:

"Advertisements. No owner or keeper of a stallion not of pure breeding shall permit the printing, publishing or circulating of any bill, poster, card, newspaper advertisement or other advertising calling attention to said stallion as a breeder, unless the same shall have the words "grade stallion" in two inch type immediately preceding such name."

You ask what the term "pure breeding" means in that section, and what I have already said indicates that, within the meaning of the statute, the animal must be registered in one of the stud books mentioned in the statute.

You say that there are stallions in your vicinity bred to every requirement of the National Livestock Association save the one requirement of registry, and you ask if an owner of such a stallion is liable to punishment for a misdemeanor if he fails to advertise him in the two inch type as a grade. I think the intention of the statute is that no stallion can be advertised unless the owner has {\*331} a certificate from the stallion registration board,

and the act treats all unregistered stallions as "grade" animals, provided that they have either a sire or dam of pure breeding. Any violation of any of the provisions of the act is, by Section 12, declared to be a misdemeanor and punishable by fine or imprisonment, and as the act reads, a failure to observe the requirements of Section 7 would be a misdemeanor.

You also ask me what is meant by "two inch type," but I hardly think that I ought to attempt to instruct a newspaper man as to what is meant by such a phrase as he must be better informed than I. I would understand that it means type two inches high.