

LIVE STOCK LAWS
OF THE STATE OF ARIZONA

REVISED CODE 1928
WITH AMENDMENTS



RULES AND REGULATIONS
Live Stock Sanitary Board
of Arizona
MAY 1, 1930

Compiled and Annotated by
HOYT MEDLER, Secretary

ISSUED BY THE LIVE STOCK SANITARY
BOARD AND SHEEP SANITARY
COMMISSION OF ARIZONA

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CHAPTER 48.

Live stock.

Article:

1. Live stock sanitary board and state veterinarian.
2. Live stock diseases and quarantine.
3. Eradication of tuberculosis.
4. Inspection and branding.
5. Sheep and goats.
6. Estrays and migratory live stock.
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Article 1. Live Stock Sanitary Board and State Veterinarian.

§2076. Board Appointment; Bond; Compensation. Three qualified electors identified with and experienced in the live stock interests in the State shall be appointed by the Governor, with the advice and consent of the Senate, who shall constitute the Live Stock Sanitary Board. Each member shall execute bond to the State, in the sum of two thousand dollars, conditioned for the faithful performance of his duties and the term of office shall be three years. The Board shall elect one of their number chairman, keep a complete record of its proceedings and make such reports to the Governor as required by him, and a biennial report to the legislature. The members shall each receive ten dollars per day for the time necessarily employed in discharging their duties; provided, however, that in no one year shall the board be in session more than sixty days, except upon call of the governor; and members of the board shall receive the mileage allowance in attending such meetings. (Secs. 1-2, Ch. 51, L. '05; 3688-9, R. S. '13, cons. & rev.)

§2077. General Duties of Board; Peace Officers Must Assist Board. The board shall exercise a general supervision over, and protect the stock interests of the state from theft and from contagious and infectious diseases; and the public from disease and unwholesome meat products; advise and recommend legislation fostering the live stock industry; prescribe rules for the seizure and sale of stray stock; and appoint inspectors and detectives necessary for these objects, to be under the direction and control of the board. The board shall keep a permanent record of its acts and of the acts and reports of said inspectors and detectives. The board may appoint a secretary and pay him not exceeding twenty-four hundred dollars a year, and hire necessary clerical help. The secretary shall file the oath of office and give bond payable to the state for two thousand dollars. The board may call upon any cattle inspector or peace officer to execute its orders, and such officer shall obey such orders. (Secs. 15, 23, Ch. 51, L. '05; 3702, 3710, R. S. '13. cons. & rev.)

§2078. State Veterinarian; Oath, Bond and Salary. The governor shall appoint, with the consent of the

senate, a skilled veterinary surgeon for the state, who shall be a graduate in good standing of a recognized school of veterinary surgery, hold his office for the term of two years, unless sooner removed by the board, and whose salary shall be eighteen hundred dollars per annum, and the mileage allowed by law. He shall take the oath of office and execute a bond to the state in the sum of five thousand dollars. (Sec. 3, Ch. 51, L. '05; 3690, R. S. '13, am. 141, Ch. 35, L. '22, rev.)

Article 2. Live Stock Diseases and Quarantine.

§2079. Contagious or Infectious Disease; Owner to Give Notice; Penalty for Concealment. An owner or person in charge of domestic animals, who discovers, or has reason to believe that any of said animals are infected with any infectious or contagious disease, and any person who discovers the existence of any contagious or infectious disease among the domestic animals of another, shall immediately report such fact or belief to the board, or to the state veterinarian. A wilful concealment or attempt to conceal the existence of such disease shall be a misdemeanor. (Sec. 4, Ch. 51, L. '05; 3691, R. S. '13, rev.)

See the article "Animals," 2 Cal. Jur. 1; 1 R. C. L. 1055.

§2080. Veterinarian to Keep and Provide Serums for Diseases. The state veterinarian shall keep on hand at all times a supply of anti-hog cholera serum, vaccine for black-leg and other serums for the treatment of infectious or contagious diseases of live stock, and dispense the same at the actual cost to owners of hogs and other live stock in Arizona, whenever he deems it advisable to do so, and under such rules and regulations as he may prescribe. He may make any board of supervisors a depository for such serum or vaccine, to be by the said board sold or dispensed under such rules as he may prescribe. Whenever the state veterinarian shall so deposit any of said serum or vaccine the board shall account and be responsible for the same or the value thereof, and report on January first and July first annually to the state veterinarian. (Secs. 1-2, Ch. 19, L. '15, cons. & rev.)

§2081. Board May Establish Quarantine; Prevent Spreading of Disease; Proclamation. The board may maintain and enforce such quarantine, sanitary and other regulations including methods of disinfecting railroad cars and corrals and governing the admission of all classes of live stock into the state as it may deem necessary. Members of the board, upon receipt of reliable information of the existence among the domestic animals of the state of any contagious, infectious or malignant disease, shall immediately notify the state veterinarian who shall go at once to the place of such disease and make careful examination of such animals and ascertain, what, if any, disease exists, and whether it is contagious or infectious, and if found to be of a

malignant, contagious or infectious character, he shall direct a temporary quarantine and sanitary regulations necessary to prevent the spread of any such disease and report forthwith his findings and action to the chairman of the board. The chairman may convene the board at the most convenient place and if it be satisfied that any contagious or infectious disease exists which seriously affects the health of domestic animals, it shall authorize the state veterinarian to establish the quarantine, sanitary and police regulations necessary to circumscribe and exterminate such disease; and no domestic animals liable to become infected with the disease or capable of communicating the same, shall be permitted to leave the district or grounds so quarantined, except by the authority of the state veterinarian. The board shall prescribe such rules and regulations as will enable the state veterinarian to perfectly isolate the diseased and exposed animals from all other domestic animals susceptible of becoming infected with the disease, and shall also, from time to time, prescribe and enforce such directions and regulations as to separating, mode of handling, treating, feeding and caring for such animals as it deems necessary to prevent the two classes of animals from coming in contact with each other. The board or veterinarian may enter upon any grounds or premises to carry out its duties.

The board shall notify the governor and he shall issue his proclamation, proclaiming the boundary of such quarantine, and the orders, rules and regulations prescribed by the board, which proclamation may be published by handbills within the boundaries or on the lines of the district, premises, or grounds so quarantined, or by publication in the stock papers of the state; if the board determines that it is not necessary, by reason of the limited extent of the district in which such disease exists that a proclamation issue, then none shall be issued, but the board shall give such notice as seems best to make the quarantine established effective. (Secs. 5-6-7, Ch. 51, L. '05; 3692-3-4, R. S. '13, cons. & rev.)

§2082. Slaughter of Diseased or Exposed Animals.

In epidemic diseases, where premises have been previously quarantined by the state veterinarian, he may by and with the consent of the board, order the slaughter of any, or of all diseased animals upon said premises, and of all animals that have been exposed to contagion or infection under the following restrictions: The order for slaughter shall be in writing, and in duplicate, the original to be filed in the office of the board and the duplicate given to the owner; before slaughtering any animals that have been exposed only, and do not show disease, the state veterinarian shall call in consultation with him two practicing veterinarians or physicians, resident of the state, or if impracticable, then two reputable and well known owners of stock, resident of the state, and shall have the written indorsement upon his

orders of at least one of said consulting physician or stock owners, stating that said action is necessary, and the consent in writing of the owner or person in charge, before such exposed animals shall be slaughtered. The state veterinarian shall superintend the slaughtering and the destruction of the carcass, causing it to be destroyed as cheaply as practicable by burning to ashes and shall include every part of the animal and hide, and also excrement and stable bedding or corral litter, as far as possible. (Sec. 8, Ch. 51, L. '05; 3695, R. S. '13, rev.)

Liability of public officers for killing or injuring animals, while acting or professing to act, under a statute in relation to the inspection or destruction of live stock. 12 A. L. R. 734.

§2083. Shipment or Use of Diseased Animals; Penalty. Any person who has in his possession any domestic animal affected with any contagious or infectious disease, knowing such animal to be so affected, or who, after having received notice that such animal is so affected, shall sell, drive, ship, barter, exchange or give away such diseased animal which has been exposed to such infection or contagion, (sheep infected with scab upon the range excepted) or who shall move or drive any domestic animal in violation of any direction, regulation or order affecting such contagious or infectious diseases, or establishing and regulating quarantines, or who shall kill for butcher purposes any diseased animal, or sell, give away or use any part of it, or sell or give away its milk, or remove any part of the skin, knowing it to be diseased, shall be guilty of a misdemeanor; provided, that any owner of any domestic animal which has been affected with, or exposed to, any contagious or infectious disease may dispose of the same after having obtained from the state veterinarian a bill of good health of such animal. (Sec. 9, Ch. 51, L. '05; 3696, R. S. '13, rev.)

Cited as C. C. 1913, par. 3696, without construction or application. *Tremaine Alfalfa Ranch & Milling Co. v. Carmichael*, (1927), . . . Ariz. . . ., 259 Pac. 884.

§2084. Importation of Diseased Animals Prohibited. Whenever the board has good reason to believe that any contagious or infectious disease exists in any other state or country, or that there are conditions that render domestic animals from such districts liable to convey such disease, it shall report the same to the governor. Thereupon the governor shall, by proclamation, prohibit the importation of any live stock of the kind diseased into the state, unless accompanied with a certificate of good health given by a duly authorized state veterinarian. All such animals arriving in this state shall be examined upon arrival by the state veterinarian and if deemed necessary, placed in close quarantine until all danger of infection is passed, when they shall be released by order of the state veterinarian, the expense connected with such examination to be paid by the owner or the person in charge of such stock. (Sec. 10, Ch. 51, L. '05; 3697, R. S. '13.)

§2085. Violation of Quarantine Regulations; Examination of Cattle in Transit. It shall be unlawful for any person to drive or transport, or cause to be driven or transported in the state any live stock from those states or countries, against which the governor has proclaimed a quarantine; provided, that cattle in transit through the state on a railroad, when not unloaded, are not liable to the penalties provided in this article, otherwise the regulations contained herein shall apply as well to those animals in transit through the state as to those resident therein. The board or the state veterinarian may examine, whether in yards or pasture, or stables, or upon the public domain, all animals passing through the state, or any part of it, and on detection or suspicion of disease, take possession of and treat and dispose of said animals in the same manner as is prescribed for animals resident in the state. (Sec. 11, Ch. 51, L. '05; 3698, R. S. '13, rev.)

§2086. Violations; Penalty. Every person who violates, disregards or evades any of the provisions of this article or any of the rules, regulations, orders or directions of the said board establishing and governing quarantine shall be guilty of a misdemeanor, and shall be liable for any damage caused by such failure. (Sec. 13, Ch. 51, L. '05; 3700, R. S. '13 rev.)

§ 2087. Prevention Against Texas and Spanish Fever; Penalty. Any person who shall drive or cause to be driven into or through any county or part thereof or turn loose or keep upon any highway, range, common or inclosed pasture within this state, any cattle capable of communicating, or liable to impart what is known as Texas, splenetic or Spanish fever and any person connected with or employed in the business or operation of a carrier who shall ship, or permit to be shipped, or transport, or permit to be transported, or deliver to any person within this state, any cattle capable of communicating, or liable to impart what is known as Texas, splenetic or Spanish fever, shall be guilty of a misdemeanor, and in addition thereto shall be liable to any party injured through such violation for any damages that may thereby arise, and the party so injured shall have a lien for his damages on the live stock so communicating the disease to be enforced as other liens on like property. Cattle in transit in cars through this state on any railroad, and not unloaded, are not liable to the penalties attached to this section and the provisions of this section shall not prohibit the entry into Arizona of cattle from south of the U. S. quarantine line for immediate slaughter, at all seasons of the year, and non-infected cattle from south of the U. S. quarantine line for all purposes in compliance with the regulations of the Live Stock Sanitary Board. (Secs. 16-17, Ch. 51, L. '05; 3703-4, R. S. '13, cons. & rev.)

§2088. Seizure of Cattle Liable to Communicate Fever. Sheriffs and live stock inspectors, upon com-

plaint by any citizen of the state, or otherwise having notice or knowledge that there are within the county where such officers reside, cattle believed to be capable of communicating or liable to impart the disease known as Texas, splenetic or Spanish fever, shall forthwith take charge of and restrain such cattle under such temporary quarantine regulations as will prevent the communication of such disease, and make immediate report thereof to the said board, and such officer shall keep such cattle in custody until released by the order of said board, and an officer who shall so take or detain any cattle shall not be liable to the owner of such cattle for any damage by reason of such detention or taking. (Secs. 18, Ch. 51, L. '05; 3705, R. S. '13, rev.)

§2089. Impounding of Cattle Liable to Communicate Fever. Whenever the board shall determine that certain cattle within the state are liable to impart Texas, splenetic or Spanish fever, it shall issue an order to the sheriff or any constable or live stock inspector of the county in which such cattle are found, commanding him to take and keep such cattle in his custody, subject to such quarantine regulations as it may prescribe until the first day of December next ensuing, on which date it shall direct such officer to deliver such cattle to the owner; provided, however, that before the cattle so held shall be delivered, there shall be paid to said board the costs and expenses of taking, detaining and holding such cattle. In case such costs and expenses are not paid within ten days after the first day of December, the said officer shall advertise, in the same manner as provided for sales under chattel mortgages, that he will sell such cattle or such portion thereof as necessary to pay such costs and expenses of sale. At the time and place so advertised, he shall sell as many of the said cattle as necessary to pay off said costs and expenses of the sale, and forthwith pay over to the owner of said cattle, any surplus. (Sec. 19, Ch. 51, L., '05; 3706 R. S. '13, rev.)

§2090. Presumption at Trial. In the trial of any person charged with a violation of any of the provisions hereof, and in the trial of any civil action to recover damages for the communication of Texas, splenetic or Spanish fever, proof that the cattle were brought into this state in violation of the rules of the Live Stock Sanitary Board from territory within the area of which the United States department of agriculture from time to time has given notice that a contagious and infectious disease known as splenetic or southern fever exists among cattle, shall be taken as prima facie evidence that cattle were capable of communicating or liable to impart Texas, splenetic or Spanish fever, and that the owner or person in charge of such cattle had full knowledge and notice thereof. (Secs. 21, Ch. 51, L. '05; 3708, R. S. '13, rev.)

Article 3. Eradication of Tuberculosis.

§2091. Board Empowered to Cooperate With U. S. Bureau in Eradication of Tuberculosis. The Live Stock Sanitary Board may cooperate with the bureau of animal industry of the United States department of agriculture for the eradication of tuberculosis among cattle in the state, and accept for the state the terms of cooperative agreements promulgated by such bureau, under authority of the provisions of the acts of congress relating thereto to the effect said purpose. The board may appoint veterinary inspectors to act with and under the direction of the state veterinarian, as may be necessary to give full force and effect to the terms of such cooperative agreements. (Secs. 1-2, Ch. 30, L. '21, cons. & rev.)

See the article "Animals," 2 Cal. Jur. 1; 1 R. C. L. 1055.

§2092. Veterinarians Empowered to Inspect Animals and Destroy if Infected. The state veterinarian and any inspector appointed hereunder may enter any place where an animal may be and take custody thereof for the purpose of making an examination of such animal as to the presence of a contagious disease including tuberculosis, and retain such custody for the purpose of applying the tuberculin test thereto. If the animal reacts to such test, the inspecting officer may at once condemn said animal, and order that it be killed. (Sec. 3, Ch. 30, L. '21, rev.)

§2093. Agreement As To Value of Animal To Be Killed; Memorandum Thereof. When an animal in which tuberculosis is found is ordered killed, the inspector and the owner shall attempt to agree upon the value of such animal within the limit of value prescribed in this article. Upon such agreement being made, the inspector shall make a memorandum showing the date of the order of killing, describing the place where the animal was taken and from whom, describing the animal, and insert therein the value agreed upon. The memoranda shall be signed by the owner and the inspecting officer, one to be delivered to the owner, one returned by the inspector to the office of the board, one to the bureau of animal industry, and one for record. If such agreement is not made, the inspector shall fix the value of such animal, and execute a like memorandum thereof, except that it shall recite the fact that the owner refused to agree as to value, or refused to join in the execution of the memoranda. (Sec. 4, Ch. 30, L. '21, rev.)

§2094. Fixing Salvage Value Where Not Agreed On. If the inspector and owner cannot immediately agree as to any salvage value from the carcass of such animal, it shall be taken by the owner to the nearest slaughter house where federal inspection is maintained, there slaughtered and the carcass disposed of under such federal inspection, and the amount received from a sale

so made shall be deemed the salvage value of such animal. The inspecting officer shall continue the custody of each animal ordered killed until killed and the carcass sold or otherwise disposed of. Any person interfering with any veterinary inspecting officer acting under the provisions of this article shall be guilty of interfering with officers in the discharge of their official duties. (Sec. 5, Ch. 30, L. '21, rev.)

§2095.—State to Refund One-Third Value of Animal After Deducting Salvage; Value Limits. After the salvage value has been received from a disposition of the carcass, the amount so received shall be paid to the owner of the animal and deducted from the appraised value of the animal, and the owner shall have a claim against the state for one-third of the balance of the appraised value, subject to the limitations herein. Such claims shall be presented to the board accompanied by the memoranda of appraisal and report showing the salvage sale and the amount received from such sale and shall be verified by the claimant and paid as other claims against the state are paid. No claim shall be allowed in excess of fifty dollars for a pure-bred animal nor twenty-five dollars for a grade stock animal. The presentation and allowance of such claims against the state shall not deprive the claimant of any rights to present claims for the same animals to the United States. (Secs. 6-7, Ch. 30, L. '21, rev.)

§2096. Person in Possession of Animal Presumed To Be Owner; Settling Dispute As To Ownership. For the purpose hereof, the person in whose actual possession or control an animal is first found by a veterinary inspector, shall be deemed the owner thereof, and shall be dealt with as such owner, until the contrary appears. If a dispute arises as to ownership the veterinary inspector shall nevertheless proceed hereunder, condemn any animal reacting to the tuberculin test, appraise such animal, have same inspected and sold for salvage, and report his acts to the board, with a remittance of amounts received as salvage. Claimants may present their rights to the board within thirty days after the animal is first taken. The board shall hold the salvage money, and all claims for compensation, where the report shows a conflict as to ownership of an animal, until thirty days have elapsed, and thereafter until such board can satisfy itself as to the rightful claimant, or until the rightful claimant is determined in court. The board shall not be liable for any distribution of salvage or compensation by it made after the thirty days have elapsed, nor shall any claim accrue against the state on account of any action taken by the board in the distribution of such funds. (Sec. 8, Ch. 30, L. '21, rev.)

§2097. Construction of Article. The powers conferred by this article are to be so construed as to permit the condemnation and killing of such animals as are in

the opinion of the inspector infected with tuberculosis. The acts and orders of every veterinary inspector, acting pursuant to the provisions hereof, shall be final, and not subject to control or review by any court. (Sec. 9, Ch. 30, L. '21, rev.)

§2098. Breeding Stock Brought Into State; Sequestration; Inspection; Destruction; Violations; Penalty. All dairy cattle and all grades of hogs and cattle classified and known as breeding stock, exclusive of range cattle, transported into the state shall be kept by the owner thereof, or the person having the control and charge thereof, sequestered and separated from other cattle and live stock for a period of sixty days from the date of their arrival in the state. At the expiration of sixty days said stock shall be inspected by direction of the state veterinarian and the tuberculin test applied, and if any of said stock are determined to be afflicted with tuberculosis, they shall be disposed of in all respected as prescribed in this article; except that no compensation shall be paid by the state for the condemnation, killing or disposition of any such animal. Any person having control or charge of such stock who shall refuse or neglect to keep same sequestered, as provided herein, shall be guilty of a misdemeanor. (Secs. 1-2-3, Ch. 47, L. '23, cons. & rev.)

Article 4. Inspection and Branding.

§2099. Live Stock Inspectors. The board may appoint live stock inspectors, and upon petition of not less than five cattlemen, each of whom shall be the owner of not less than fifty head of cattle in the state, shall appoint inspectors at any point at which there is no regular appointed and acting inspector, who shall take the oath of office and give bond to the state in the sum of five hundred dollars. Such inspectors may appoint deputies to enforce the provisions of this article. Any live stock inspector, who shall engage in buying, selling, bartering or exchanging live stock upon commission or for other compensation or reward as factor, broker or agent, shall be guilty of a misdemeanor. (Secs. 26-7-8-9, Ch. 51, L. '05; 3713-14-15-16, R. S. '13, cons. & rev.)

See the article "Animals," 2 Cal. Jur. 1: 1 R. C. L. 1055.

§2100. Powers and Duties. Every inspector shall have authority to authenticate bills of sale of animals, brands and marks and give certificates of acknowledgments of the same under his hand and seal and take acknowledgments to applications for brands and marks. No inspector shall receive a fee of more than twenty-five cents for taking an acknowledgment. The inspector shall arrest all persons who violate the stock laws of this state and shall, upon information that any person has violated any law of this state for the protection of the stock industry, make the affidavit for the arrest and examination of such person, and shall, upon warrants issued therefor, immediately arrest such person, make

due return of said warrant, and notify the board. The board shall assist in the prosecution of persons charged with crimes under this chapter. (Sec. 31, Ch. 51, L. '05; 3718, R. S. '13, rev.)

§2101. Duties With Respect to Unbranded Cattle. No inspector shall grant any certificate of inspection of any unbranded hides or animals or of any hides or animals upon which the marks and brands cannot be ascertained; and he shall prevent the same from being shipped out of the county unless they are identified by proof, or by a bill of sale signed by the proven owner of such hides or animals and duly acknowledged, except that cattle which are sold, and driven to be delivered in field or pasture may be inspected for brands and marks upon delivery in such fields or pasture. The inspector shall report such inspection to the board. (Sec. 32, Ch. 51, L. '05; 3719, R. S. '13, rev.)

§2102. Manner of Inspecting Live Stock; Record of Inspections. The inspectors shall inspect for health and for marks and brands, at the railway loading station, at the place of exit from the state, and at all places where neat cattle are gathered to be driven off their range for any purpose, or that are being driven away from their usual range, wherever and whenever the inspector may encounter them and detain them until daylight, and require from the owner or person in charge a list of the brands and marks, and determine by inspection that such stock is not stolen property, and that the person in charge is the owner thereof or authorized in writing by the owner to handle such stock. The inspector shall make a permanent record of such inspection, showing the place and date of making the same, the name of the owner, the person in charge, the kind and description of stock, together with the number in each brand and mark, and other necessary information. A record of all inspections shall be kept by the board. If upon such inspection stock be found not belonging to the shipper or to the driver, or which he is not authorized in writing to ship or drive, it shall be taken by the inspector and dealt with in accordance with the rules of the board. (Sec. 33, Ch. 51, L. '05; 3720, R. S. '13, rev.)

§2103. Manner and Time of Inspecting Live Stock. Inspections of live stock by inspectors shall be made in daylight and the inspection of horses, mules, asses, and cattle shall be made, when pens will admit, by driving such animals into a pen or corral, in bunches of not more than five, and held in such pen or corral until the inspector shall personally see and inspect each and every mark and brand, and mark the same on his record or tally. An inspector who shall inspect cattle in any other manner than that prescribed, or any person who shall oppose, obstruct, hinder or attempt to obstruct or hinder such inspection, shall be guilty of a mis-

demeanor. (Secs. 83-4, Ch. 51, L. 05; 3773-4, R. S. '13, cons. & rev.)

§2104. Inspection To Be Made Immediately; Fee; Certificate. An inspector, upon being advised or informed that any live stock is subject to inspection, shall inspect such live stock immediately. The person in charge of such live stock, when inspected, shall pay to the inspector for such inspection ten cents per head for horses, mules, asses, and neat cattle, and two cents per head for hogs. The inspector shall thereupon certify in writing to the owner or person in charge, on a form furnished by the board, that such live stock has been inspected, according to law, for health and for marks and brands. (Sec. 35, Ch. 51, L. '05, am., Ch. 5 L. '13, 2nd S. S.; 3722, R. S. '13, rev.)

§2105. Carrier Not to Transport Stock Until After Inspection; Penalty. It shall be unlawful for any common carrier to receive any live stock for transportation until the same has been inspected as required, and until furnished with a certificate by a duly authorized inspector, showing that the health, brands and earmarks of such live stock have been inspected as required by law. Any person violating the provisions of this section shall be guilty of a crime, and shall be fined not less than one hundred dollars and not more than five thousand dollars. (Sec. 37, Ch. 51, L. '05; 3724, R. S. '13, rev.)

§2106. Range Stock To Be Branded; Seizure. It shall be unlawful for any owner of range live stock to permit same to roam and feed upon the ranges in this state unless branded and marked as prescribed by law, except such young, unweaned animals as may be running with their mothers. Every inspector shall seize any domestic live stock animal found running at large upon any range which is not branded according to law except young unweaned animals running with their own mothers; and any domestic live stock running at large upon any range, with brands so mutilated, indistinct, burnt or otherwise disfigured as to be incapable or difficult of ascertainment or upon which there may be a brand which is not recorded as required by law, or which is freshly branded and not found with its mother, or which has a mark or brand not the recorded mark or brand of the owner, or which is freshly marked or branded and which are known as "leppys," "orejanas," "sleepers," "dogies," or "mavericks." Secs. 38-9, Ch. 51, L. '05; 3725-6, R. S. '13, cons. & rev.)

Under Laws 1903, Act No. 26, sec. 5 authorizing the seizure of livestock "the ownership of which is questioned," a seizure of animals in the actual possession of another was not warranted unless some claim of ownership was made, or the officer himself was able to question the ownership because of facts brought to his knowledge from which it might be inferred that the possessor was not the lawful owner. *Lacey v. Parks*, (1905), 9 Ariz. 241, 80 Pac. 367.

§2107. Terms Defined. The term "range live stock" when used in this chapter, is defined to be live stock

or animals customarily permitted to roam upon the open and unenclosed tracts of land in the state, whether of the public domain or in private ownership, and upon which by custom, license or otherwise live stock is permitted to roam and feed, and not in the immediate actual possession or control of the owner or any person for him, though occasionally placed by the owner in enclosures for temporary purposes. The enclosure or possession of range animals by others than their owners shall not change their character as range animals. The term "range" is defined as the unenclosed lands outside of cities, and towns, whether of the public domain or in private ownership upon which by custom, license or otherwise, live stock is permitted to roam and feed. (Sec. 41, Ch. 51, L. '05; 3728, R. S. '13, rev.)

The word "range," when used as descriptive of livestock, means livestock that roam and feed upon the open and uninclosed land in the state, and not in the actual possession or control of the owner or his agent. The fact that such livestock occasionally placed in inclosures for temporary purposes does not change it from range stock. *Wightman v. King*, (1926)—*Ariz.*—, 250 Pac. 772.

§2108. Inspector to Report Seizure. When an inspector has seized an animal under the provisions of this article he shall safely keep and care for the same until disposed of, and forthwith report such seizure, if the value of all thereof seized at one time does not exceed two hundred dollars, to a justice of the peace having his office nearest the place of seizure. The report shall give a description of the animals and brands, if any, the place of and reasons for seizure, their probable value and ask that the owner be cited to appear and prove ownership. If the value of the animals seized exceed two hundred dollars, the inspector shall make the like report of such seizure to the superior court of the county where seized. The clerk of the court shall file the report and docket the same as an action by the state, in its name and against the reputed owners of the animals, if any are known, and against the unknown owners. The clerk shall thereupon issue a citation against the defendants, and all persons claiming said animals to appear and prove their ownership thereof, returnable as in a civil action, and further proceedings shall be taken in the action as prescribed for like proceedings before a justice of the peace. (Sec. 42, Ch. 51, L. '05; 3729, R. S. '13, rev.)

The statute must be strictly followed, and a material departure from the procedure authorized will render the subsequent proceedings void. *Lacey v. Parks*, (1905), 9 *Ariz.* 241, 80 Pac. 367.

§2109. Proceedings Before Justice; Citation to Appear. The justice of the peace shall file the report and enter a brief statement of the report on his docket, fix a time for the hearing of the evidence of the ownership of such animals, not less than twelve and not more than twenty days after the date of the filing of the report. He shall thereupon issue a citation directing all persons claiming said animals or any of them to appear before

him at the time fixed therefor and prove their ownership thereof. Said citation shall be addressed to whom it may concern, set up the facts in the report and be delivered to and served by the inspector who made the seizure, or if for any reason he be disqualified or cannot act, then to any constable or sheriff of said county. (Sec. 43, Ch. 51, L. '05; 3730, R. S. '13, rev.)

The failure to give notice for the length of time prescribed by this section is a material departure rendering void a subsequent sale of the animals. *Lacey v. Parks*, (1905), 9 Ariz. 241, 80 Pac. 367.

§2110. Service of Citation on Brand and Mark Owners; Default. If the live stock be branded and marked with the recorded brands or marks of any person said citation shall be served upon the person owning the brand and mark, if he can be found in the precinct, at least five days before the day fixed for the hearing, and a copy of said citation posted in at least three public and conspicuous places in said precinct at least eight days before the day so fixed for said hearing, at least one of which shall be posted upon the range as near as practicable to the place of seizure. At the time fixed for hearing, said inspector, or the officer shall make return of the citation to said justice. If it appears that due service of said citation has been made as required herein, and no one appears to claim said live stock so seized or any thereof, the justice shall thereupon adjudge the same forfeited to the state, and shall order the same to be sold as hereinafter prescribed. (Secs. 44-5, Ch. 51, L. '05; 3731-2, R. S. '13, cons. & rev.)

The failure to post copies of the citation as required by this section is a fatal defect, invalidating a subsequent sale of the animal seized. *Lacey v. Parks*, (1905), 9 Ariz. 241, 80 Pac. 367.

§2111. Trial and Judgment; Form of Judgment. If any person appear at the time fixed for the hearing and claim said live stock or any thereof, his claim shall be stated and the justice shall enter in his docket the fact that such claim was made and the hearing shall proceed as in trials of civil actions. Stock adjudged to any person shall be released from seizure and stock not adjudged to any person shall be forfeited to the state and ordered sold by the inspector at public auction at a convenient public place in the precinct upon a fixed date after notice, as in sales of personal property under execution. Thereupon said justice shall issue execution and deliver the same to any inspector appointed by the Live Stock Sanitary Board to carry out the order of sale and make return thereof within thirty days. (Sec. 46, Ch. 51, L. '05; 3733, R. S. '13, rev.)

§2112. Sale of Stock, Bill of Sale; Disposal of Proceeds. The officer shall execute the order of sale and deliver a bill of sale to the purchaser, describing therein the animals sold. Upon delivery of the bill of sale title to the animals shall rest in the purchaser. Out of the proceeds the officer shall retain first the costs, the keep of the animals seized and costs incident thereto,

and remit the remainder of the proceeds of such sale to the said board, to be paid by it into the general fund of the state. (Secs. 47-8-9, Ch. 51, L. '05; 3734-5-6, R. S. '13, am., 61, Ch. 35, L. '22, cons. & rev.)

§2113. Brands and Earmarks; Transfers. Every person owning range horses, mules, asses, or meat cattle, sheep or goats, in this state, may design and adopt a brand and earmark with which to brand and mark his animals. No two or more brands of the same design or figure, and no two or more earmarks of the same kind shall be adopted or recorded. The brand or earmark designed, adopted and recorded, shall be the property of the person so designing, adopting and recording the same, and the right to its use may be sold and transferred, no sale, transfer, or encumbrance thereof shall be valid, however, except it be evidenced by a written bill of sale, recorded in the office of the secretary of the Live Stock Sanitary Board. (Sec. 63, Ch. 51, L. '05; 3755, R. S. '13, rev.)

This section relates to the sale, transfer or encumbrance "of the right to use" a brand or mark, and has no direct application to a sale of the animals; and upon a prosecution for larceny of an animal a bill of sale thereof to the person alleged in the indictment to be the owner may be admitted in evidence, although it was recorded after the date of the alleged commission of the offense. *Webb v. State*, (1913), 14 Ariz. 506, 131 Pac. 970.

The rules appertaining to sales of personal property generally do not apply to sales of range stock on the open and uninclosed range. A buyer of range stock under a verbal sale may not leave them, together with their increase, on the range of the seller, and claim them against a mortgagee or purchaser who has, in good faith and without notice, loaned money on them or purchased them from the seller. *Wightman v. King*, (1926), . . . Ariz. . . ., 250 Pac. 772

§2114. Record of Brands; Fees. The board shall record in a brand book the brand and earmark adopted at the request of the person adopting the same, if not similar to the brand or mark theretofore adopted by any other person in the state owning range stock. The recording of the brand or mark shall consist in depicting in the brand book a facsimile of the brand adopted, and a diagram of the earmarks, together with an entry in said book of the name, residence, and post office address of the person adopting the same, the date when presented for record, the place upon the animal where the brand has been and is proposed to be used, the kind of animals upon which it has been and is proposed to be used, and a general designation and statement of the location of the range whereon such animals are permitted to range. Before such record is made, proof shall be submitted to the board that the applicant is the owner thereof and entitled to use the same, and that he is the owner of the range animals. The applicant shall also make an affidavit that he does not know, and is in no way interested in, any similar brand or earmark that is being run or used in the Republic of Mexico. The fee for recording a brand or earmark shall be five dollars and shall entitle the owner to a certified copy of the record. For recording a bill of

sale of a brand or mark the fee shall be one dollar. (Secs. 64, Ch. 60, L. '12, Ch. 56, L. '13, 3rd S. S.; 3756-7, R. S. '13, cons. & rev.)

See notes under Par. 2113, *supra*; Par. 2115, *infra*.

§2115. Certificates and Brand as Evidence. A certified copy of any entry made in said brand book relating to a brand or earmark shall be taken in all courts of the state as prima facie evidence of all the facts required to be entered in said book, and of the right of the person therein named to use such brand or earmark for branding or marking his animals. The brand or earmark of the owner thereof who has complied with the provisions of this article, borne by a range animal shall be taken in court as prima facie evidence that the animal bearing the same is the property of the owner of such brand and mark, except when it is borne by an animal seized under the provisions of this chapter, and except it be a fresh brand or mark upon an animal commonly known as a "maverick," "leppy," "orejana," "sleeper," or "dogie." (Secs. 68, Ch. 51, L. '05; 3757, in part, 3758, R. S. '13, cons. & rev.)

See notes under par. 2113, *supra*.

Use of Unrecorded Brands Abolished. This and subsequent sections evince an intention by the legislature so far as possible to abolish the use of unrecorded marks or brands in Arizona. *Mounce v. Wightman*, 30 Ariz. 45, 243 Pac. 916.

Brands as Evidence of Ownership. Under this section a recorded brand is not conclusive evidence of ownership. *Mounce v. Wightman*, 30 Ariz. 45, 243 Pac. 916.

Under the law regarding brands, ownership or title may not be shown in a civil case by the mere fact that a certain unrecorded brand is claimed by a certain individual and that it is on the stock whose ownership is in question, though such brand may be considered as a method of identification. *Mounce v. Wightman*, 30 Ariz. 45, 243 Pac. 916.

The evidentiary value of properly recorded brand section is not destroyed by Laws 1919, ch. 16. *Douglas v. State*, (1924), 26 Ariz. 327, 225 Pac. 335.

Certificate Not Evidence of Title of Animals. While this section constitutes the certificate of the registration of a brand competent evidence of such registration, and prima facie evidence of the ownership of such brand, it does not make such certificate either competent or prima facie evidence for the purpose of showing title to the cattle, where the ownership of the brand or the fact of its registration was not in controversy. *Brill v. Christy*, (1901), 7 Ariz. 217, 223, 63 Pac. 757.

§2116. Bill of Sale Not Necessary; Lack of In Trial For Theft; Fees. Upon the sale, alienation, or transfer of any range horses, mules, asses or neat cattle, the actual delivery of such animal shall be accompanied by a written, signed and acknowledged bill of sale from the vendor to the party purchasing, giving the number, kind, marks and brand of each animal sold and delivered. Upon the trial of any person charged with the theft, unlawful possession, handling, driving or killing of any such animal the possession under claim of ownership by purchase of such animal by the accused, without he having such bill of sale therefor, shall be prima facie evidence against the accused that such possession was illegal. No officer taking an acknowledgment to any bill

of sale may receive a larger fee than twenty-five cents. (Sec. 72, Ch. 51, L. '05; 3762, R. S. '13, rev.)

See notes under Par. 2113, supra.

This act, (Laws 1897, Act No. 6), does not prohibit the sale or transfer of cattle on the range by bill of sale without actual delivery. *Brill v. Christy*, (1901), 7 Ariz. 217, 221, 63 Pac. 757.

§2117. Owner of Brand Must Give Written Authority to Any Other Person Using Same. Any person owning a recorded mark or brand and being the owner of animals of the horse, mule, ass or neat cattle kind, branded with such brand, or who is the lawful owner of such animals having other brands, who may wish to authorize any other person to gather, drive or otherwise handle any of said animals by their mark and brand, shall furnish to such person an authority in writing containing a list of the marks and brands authorized to be handled and authorizing him to gather, drive or otherwise handle the stock therein described. If any person in giving any such written authority shall insert therein any mark or brand of which said person is not the lawful owner, and any animal having any such brand or mark shall be unlawfully taken, gathered, driven or otherwise handled by the person having such written authority and by virtue thereof, then the person giving such written authority shall be deemed a principal to the unlawful taking, gathering, driving or handling of such animal. (Sec. 74, Ch. 51, L. '05; 3764, R. S. '13, rev.)

§2118. Using Unlawful or Unrecorded Brand; Larceny. Every person who shall mark or brand any unmarked or unbranded horse, mule, ass or neat cattle found running at large upon any range with a mark or brand that has not been recorded under the provisions of this article, or who, for the purpose of branding horses or cattle, uses as a brand a sash, frying pan or any device whatsoever which can be employed or used to obliterate a brand, and every person who shall use any unrecorded brand which is an infringement upon any recorded brand, or who shall use a like brand in the same position or place recorded by another, shall be guilty of larceny of said animal. (Sec. 76, Ch. 51, L. '05; 3766, R. S. '13.)

See notes under Par. 2115, supra.

§2119.. Taking Animal Without Consent of Owner; Violations in General; Penalty. It shall be unlawful for any person to take up from any range, ranch, farm, corral, yard or stable, any horse, mule or other animal and use the same without the consent of the owner of such animal, or of the person having the same lawfully in charge, and such person shall be guilty of a misdemeanor. Any person violating any provision of this article, the penalty of which is not otherwise specially provided for, shall be guilty of a misdemeanor.

This article shall not apply to a disease common to

sheep, known as scab or scabies; and nothing in this article requiring the inspection of marks and brands before sale, removal or shipment of live stock or providing for the seizure and sale of live stock shall apply to sheep and goats, the word "brand" shall not include wool brands on sheep or goats, and the provisions for the inspection of hides shall not include sheep or goat pelts, or restrict the sale or shipment of the same. (Secs. 77, 85, 92, Ch. 51, L. '05; 3767, 3775, 3782, R. S. '13, cons. & rev.)

Article 5. Sheep and Goats.

§2120. Sheep Sanitary Commission. Three qualified electors, who are bona fide sheep owners of the state, shall be appointed by the governor, with the advice and consent of the senate, who shall constitute the sheep sanitary commission. Each appointee shall take and subscribe the oath of office and execute bond in the sum of two thousand dollars to the state; their term of office shall be two years. The commission shall convene at Phoenix at least once a year, or as frequently as it may deem necessary, and may appoint a secretary at a salary not to exceed seventy-five dollars per month. Members of the commission shall be allowed all expenses necessarily incurred while discharging their duties. (Secs. 1-2-3, Ch. 70, L. '07; 3783-4-5, R. S. '13, cons. & rev.)

A claim arising under this section falls within the exception of par. 28, supra, as one expressly required by law to be audited by some officer or person other than the state auditor. Callaghan v. Boyce, (1915), 17 Ariz. 433, 443, 153 Pac. 773.

See the article "Animals," 2 Cal. Jur. 1; R. C. L. 1055.

§2121. General Powers of Commission; State Veterinarian; Inspectors. The commission shall exercise a general supervision over, and do all things practicable to protect the sheep and goat interests of the state from disease, and it shall prepare and promulgate such rules and regulations as necessary for the quarantining and dipping of sheep and goats infected with scab or scabies, or any other infectious or contagious disease, or that have in any manner been exposed to any such disease, and for the speedy and effective suppression and eradication of disease among sheep or goats. It may employ such persons and purchase such supplies and materials as necessary, and shall cause a permanent record of its acts, official reports and correspondence to be kept. The state veterinarian shall assist, advise and cooperate with the sheep sanitary commission in carrying out its orders, rules and regulations. It may appoint inspectors, requiring them to execute bond in the sum of five hundred dollars. (Secs. 4-5-6-7, Ch. 70, L. '07; 3786-7-8-9, R. S. '13, cons. & rev.)

Cited as Civ. Code, 1913, par. 3787. Callaghan v. Boyce, (1915), 17 Ariz. 443, 447, 153 Pac. 773.

§2122. Duties of Inspectors; Scabies. The inspectors shall carry out all orders and regulations of the com-

mission, and inspect all sheep or goats at such times as necessary. Whenever an inspector finds any sheep or goats affected with scab or scabies or any other contagious or infectious disease, he shall notify the owner, or party in charge thereof, that such sheep or goats are infected or exposed, directing that they be doctored or dipped at such times and places, and in such manner as he may specify, and the owner or person in charge shall afford the inspector all reasonable facilitation for inspecting and doctoring. Said inspector shall designate and limit the range to be occupied and the route to be traversed by such sheep or goats until cured of such disease, and if such owner or party in charge of such sheep or goats fails to carry out the direction of such inspector, the inspector shall take such sheep or goats into his possession at once and cause them to be cured. He may call to his assistance aid necessary for that purpose, and the owner shall be liable to said inspector for all necessary and reasonable expenses, including a compensation of five dollars per day to such inspector for every day and part of a day in which he is necessarily employed in guarding said sheep or goats until they are officially released. (Sec. 8, Ch. 70, L. '07; 3790, R. S. '13, rev.)

§2123. Infectious Diseases; Prevention and Treatment. Whenever on examination of any herd of sheep or goats said inspector finds them infected or exposed to any infectious or contagious disease, he shall forthwith take measures to prevent such disease from spreading, and the owner shall immediately proceed to treat such sheep or goats for the cure of such disease, according to directions of said inspector. Any person failing to immediately observe such directions shall be guilty of a crime, and shall be fined not less than two hundred and fifty and not more than five hundred dollars. (Sec. 9, Ch. 70, L. '07; 3791, R. S. '13, rev.)

§2124. Expenses of Treatment To Be Lien on Sheep. All legal fees, charges and expenses of inspectors shall be a first lien upon any such diseased, infected or exposed sheep or goats, in possession of whomsoever they may be found, for ninety days after treatment as herein provided, and if the owner or party in charge representing such owner, fails to pay the same upon the completion of such inspection or treatment such inspector may recover the same from the owner by an action, or he may seize and hold such sheep or goats or any part thereof for such payment, and if not paid within ten days after such treatment is completed, then such inspector may sell at public or private sale, sufficient of such sheep or goats to pay all legal fees, charges and expenses, including the expense of seizure and holding, and five dollars per day for his time during such seizure and holding. (Sec. 10, Ch. 70, L. '07; 3792, R. S. '13, rev.)

§2125. Owner to Give Notice of Disease. The owner or person in charge of any sheep or goats who discovers, suspects or has reason to believe that they are infected with any contagious or infectious disease shall immediately notify a member of the commission, the state veterinarian, or an inspector thereof and any wilful concealment or attempt to conceal the existence of such disease, or failure to submit such sheep or goats for inspection when called upon to do so, or intentional obstruction of said officers in the discharge of their duties shall be a misdemeanor. (Sec. 11, Ch. 70, L. '07; 3793, R. S. '13, rev.)

§2126. Dipping of Sheep. Any band or flock of sheep or goats infected with scab or scabies shall be dipped as often as necessary, and until they are pronounced clean by the inspector, but no sheep shall be required to be re-dipped, at such season of the year, or during such inclement weather, or so short a time before or after lambing, or under any such conditions or circumstances as would endanger the health or lives of such sheep, but diseased, infected or exposed sheep which cannot for any reason be dipped at once, must be held in quarantine under guard as heretofore provided, until they may be safely dipped, and shall be restrained and quarantined as to incur the least practicable damage to the sheep, and expense or hardship to the owner. (Sec. 12, Ch. 70, L. '07; 3794, R. S. '13, rev.)

§2127. Rules For Dipping; Disinfecting Corrals. All dipping of sheep or goats done under the supervision of any inspector shall be in accordance with the rules and regulations established by the secretary of agriculture of the United States, and no disease, infected or exposed band of sheep or goats shall be released by such inspector until pronounced cured and clean. The inspectors may require corrals or places of close confinement of infected sheep or goats to be disinfected, moved or destroyed in such manner as they may prescribe. (Sec. 13, Ch. 70, L. '07; 3795, R. S. '13, rev.)

§2128. Federal Inspectors Given Authority. The inspectors of the bureau of animal industry of the United States may exercise all rights and authority given under this article to inspectors appointed by the sheep sanitary commission. (Sec. 14, Ch. 70, L. '07; 3796, R. S. '13, rev.)

§2129. Quarantine May Be Established. The commission may establish and declare any district wherein diseased or infected sheep or goats are found, or have recently been grazed or driven, to be an infected district, and may order sheep or goats thereon or exposed to be moved, doctored, cured or disinfected under quarantine regulations, provided for herein; provided, that sheep that have only been exposed to the infection of scab or scabies shall be dipped but once under regula-

tions and supervision of an inspector. (Sec. 15, Ch. 70, L. '07; 3797, R. S. '13, rev.)

§2130. Notice of Location of Buck Herd. Any person in charge of, or having the custody or control of any buck herd shall notify the state veterinarian during the first week of July of each year giving the location of said herd. (Sec. 16, Ch. 70, L. '07; 3798, R. S. '13, rev.)

§2131. Moving Diseased Sheep; Permit. Any person desiring to move sheep which are not sound or which are infected with scab or any infectious or contagious disease, or which have been exposed to any such disease, shall obtain before moving, a trailing permit in writing, which may only be granted for the purpose of moving said sheep to the nearest practicable place where they may be treated for said disease and by such route as may be designated. Any person violating this section shall be guilty of a misdemeanor, and in addition thereto any person injured or damaged by reason of the moving of said sheep shall be entitled to recover his damage from said person. (Sec. 17, Ch. 70, L. '07; 3799, R. S. '13, rev.)

§2132. Importing Sheep; Regulations. The commission shall formulate and enforce such rules and regulations governing the admission of sheep or goats into this state by rail or trail as will insure their freedom from infection. (Sec. 19, Ch. 70, L. '07; 3801, R. S. '13.)

§2133. Importation of Diseased Sheep; General Penalty. It shall be unlawful for any person to bring into this state any sheep infected with scab or any other contagious or infectious disease, or that have in any manner been exposed to such disease. Any person violating this section shall be guilty of a crime and punished by imprisonment for not exceeding sixty days or by a fine of not less than five hundred, nor more than one thousand dollars, or by both. Except as otherwise provided in this article, every person who shall violate, disregard or evade any provision of this article, or any of the rules, orders or directions of the said commission establishing and governing quarantine, or attempt to do so, shall be guilty of a misdemeanor; and in addition thereto shall be liable for any damage that may be sustained by reason thereof. The written report of any offense, made by an inspector under oath, shall be prima facie evidence of the commission of said offense. (Secs. 20-1, Ch. 70, L. '07; 3802-3, R. S. '13, cons. & rev.)

§2134. Inspectors Have Power to Arrest. Inspectors shall have such powers of arrest as are conferred upon the sheriff for the arrest of persons violating any provision of this article, and shall promptly report to the

proper peace officers all misdemeanors or crimes committed hereunder. (Sec. 22, Ch. 70, L. '07; 3804, R. S. '13, rev.)

§2135. Dogs Killing or Chasing Sheep; Liability of Owner. If any person discovers a dog killing, wounding or chasing sheep or calves, or discovers a dog under such circumstances as show conclusively that it has recently killed sheep or calves, he may pursue and kill such dog. The owner of a dog shall be liable for all damages caused by his dog killing, wounding or chasing sheep or calves. (Secs. 1-2, Ch. 179, L. '21, rev.)

Constitutionality of "dog laws." 49 A. L. R. 847.

Liability for killing dog to protect domestic animal or fowl. 10 A. L. R. 689.

Presence of owner as affecting liability for killing trespassing dog. 42 A. L. R. 437.

Validity, construction, and effect of statute eliminating scienter as condition of liability for injury by dog or other animal. 1 A. L. R. 1113.

Scienter as condition of liability for damage by trespassing animals other than dogs. 33 A. L. R. 1305.

Article 6. Estrays and Migratory Live Stock.

§2136. When May Be Taken Up; Notice. No one shall take up any stray horse, mule, neat animal, sheep or swine, unless found within an enclosure possessed by him. One taking up an estray shall immediately forward to the nearest justice of the peace, and to the nearest cattle inspector, a full description of each animal taken, giving its kind, age, sex, color, all marks and brands, when where and by whom it was taken up and where it can be seen; and shall, during the time it is in his possession as an estray, feed and care for, but not use the same. On receipt of such description by said officers, each shall post the same in a conspicuous place in their offices, and keep the same posted for at least thirty days; the inspector shall enter in a book the information contained in the description so received by him, and undertake to find the owner, and advise him where his animal can be found. The taker-up shall, at any time before its sale, deliver the same to its owner on demand and payment of the actual costs and for keep of the animal. (Secs. 2489-90-1, 2493, R. S. '01; 3809-10-11, 3813, R. S. '13, cons. & rev.)

Character and extent of claims for which lien on animal damages feasant attaches. 26 A. L. R. 1047.

See the article "Animals," 2 Cal. Jur. 1; R. C. L. 1055.

§2137. Sale of Stray Animals. At the expiration of twenty days next after the taking up of an estray, if the owner thereof has not been found, or has not paid, or tendered, the amount due thereon and demanded its return, the taker-up shall file with the nearest justice of the peace to the place where the animal was taken, an affidavit showing his right to take up the animal, its description, and a compliance with the preceding section,

whereupon the justice shall appoint three competent and disinterested persons to appraise the value of the estray, and the actual cost of its care, and return their appraisal to said justice, who shall enter in his docket a minute of the filing of the affidavit, the appointment of the appraisers, their names and their returns, designate a time and place where said estray shall be sold at public sale, the constable or sheriff of the county who shall conduct the sale, issue an order to the officer named to advertise the animal and sell it, and designate a newspaper in which said sale shall be advertised. Said sale shall be advertised by the officer in the newspaper designated, for a period not less than ten days and shall take place not less than two nor more than five days after the expiration of such advertisement. The sale shall be for cash and for a sum not less than seventy-five per cent of the appraised value. (Secs. 2494-5, R. S. '01; 3814-15, R. S. '13, cons. & rev.)

§2138. Fees of Officers; Bill of Sale; Disposal of Proceeds. The justice shall receive a fee of two dollars the appraisers each one dollar, and the officer ten per cent on the amount of the purchase price of the animal, to be advanced by the taker-up. The officer shall, on receipt of the purchase price, execute to the purchaser, a bill of sale of the animal, vesting in him the title thereto, deliver the animal to the purchaser, pay to the taker-up the amount the appraisers found for the care of the estray, and the fees advanced by him, deduct his commission, deposit the remainder with the county treasurer to the credit of the school fund of the county and make return of his acts, together with his vouchers, to the justice. (Secs. 2496-7, R. S. '01; 3816-17, R. S. '13, cons. & rev.)

§2139. Destruction of Predatory Animals. Sufficient money for the purpose of cooperating with the United States government in the destruction of predatory animals and rodents destructive to live stock and detrimental to crops, equaling the federal appropriation and expenditure for those purposes within the state, to be expended under the supervision and direction of the bureau of biological survey of the United States, pursuant to any cooperative agreement between the State Live Stock Sanitary Board, the extension service, University of Arizona, and the said bureau, shall be paid when approved by the biological assistant, or the predatory animal inspector in charge, out of any appropriation therefor as other claims are paid. (Ch. 41, L. '19; reenacted, Ch. 57, L. '21, am.; Sec. 109, Ch. 35, L. '22, rev.)

§2140. Grazing Migratory Live Stock; Inspection, Violation; Penalties. "Migratory live stock" is live stock temporarily kept, driven or pastured, or suffered to range or graze for temporary periods of not less than ten days in this state from adjoining states. Whenever

migratory live stock is driven into or pastured or suffered to range or graze in this state from an adjoining state, the owner thereof shall within ten days from the time such live stock enters this state, notify the sheriff of the county into which such entry is made. The sheriff shall inspect said live stock to determine whether or not it is affected with any infectious, contagious, or communicable disease. Should the sheriff find such live stock so affected the live stock sanitary board, the sheep sanitary commission, or other state officer who is empowered to place under quarantine any live stock so affected shall be notified immediately by such officer. The sheriff shall collect a fee of fifty cents per head on all cattle and horses and twenty-five cents per head on all sheep or goats entering the state from any other state for the purpose of ranging or grazing within this state.

Nothing herein shall apply to live stock in transit nor to live stock owned by residents of this state which are ranged a portion of the year in adjoining states or which are taken into adjoining states for shipment back into this state. (Secs. 1-2-3-4-5-6, Ch. 28, L. '22, cons. & rev.)

Ch. 28, Laws 1922, S. S., was unconstitutional because not embraced within the Governor's call of the special session at which it was passed. *State v. Pugh*, (1927), . . . *Ariz.* . . ., 252 Pac. 1018

Article 7. Damages to Live Stock by Railroads.

§2141. Record by Railroad of Stock Killed or Crippled. Persons operating railroads shall require all section foremen, or persons discharging like duties, to keep at the section house a specific record, upon forms furnished by the Live Stock Sanitary Board, of stock killed or crippled upon their sections of such railroads, giving age, color, sex, marks and brands of such stock, which record may be inspected by the public at all reasonable times. They shall require each engineer to make a report to the railroad company on arrival at terminal, of all stock killed or crippled by his train and the time and place of such accident. The report of the engineer and the record of the section foreman shall be posted on Monday of each week at the section house or station house nearest where the accident occurred, and kept posted for thirty days. (Sec. 78, Ch. 51, L. '05; 3768, R. S. '13, am., Ch. 10, L. '15 rev.)

See notes under par. 4454, *infra*.

The section foreman's record required by this section to be kept is a public record, and in performing the duty of recording the facts and keeping such record, the foreman is made a public officer in possession of a public record. The record is admissible in evidence when proved in the manner prescribed in par. 4454, *infra*. *Atchison, Topeka & S. F. R. Co. v. Carrow*, (1916), 18 *Ariz.* 83, 90, 156 Pac. 961.

The section foreman's record kept pursuant to this section may not have been proved by testimony of a witness that he examined the record and made notes of its contents as it had reference to the animal described in the complaint, and then testify as to the contents from such notes. *Atchison, Topeka & S. F. R. Co. v. Carrow*, (1916), 18 *Ariz.* 83, 91, 156 Pac. 961.

The section foreman's record kept pursuant to this section may be used as evidence against the railroad company in a contest for damages for killing or crippling an animal. It being in writing, the record itself should be produced, or its loss or destruction accounted for, before oral evidence of its contents should be permitted. *Atchison, Topeka & S. F. R. Co. v. Carrow*, (1916), 18 Ariz. 92, 156 Pac. 965.

Dogs as within contemplation of statutes as to duty of railroads as regards live stock. 46 A. L. R. 1536.

Failure to fence as rendering railroad company liable for damage to or by live stock after leaving right of way. 24 A. L. R. 1057.

§2142. Railroad Crossing For Stock; Bridge Openings; Violations; Penalty. A railroad, fencing its line or road, shall leave an opening at least once in every three miles, in an accessible place for stock to pass through, such opening to be at least sixty feet wide, with cattle-guards at each end, and fences run to such guards, place cattle-guards and wing fences on either side of the said openings, sufficient to prevent cattle entering upon the said right of way so enclosed, and leave unfenced any places wherein the railroad runs over any trestles or bridges that are sufficiently high for cattle to go under the same. Any company violating this section shall be guilty of a misdemeanor. (Sec. 870, R. S. '01; 80-1-2, Ch. 51, L. '05; 3769-70-1-2, R. S. '13, cons. & rev.)

See notes under par. 2143, *infra*.

Providing gates in the right of way fence does not comply with the requirements of the law, *Arizona Eastern R. R. Co. v. Matthews*, (1925), 28 Ariz. 443, 445, 237 Pac. 384.

§2143. Liability For Damage to Live Stock by Railroad Company. Whenever live stock is injured or killed by locomotive or cars on the line of any railroad company unfenced by good and sufficient fence or other barrier sufficient to turn live stock, the company shall be liable in damage therefor to the owner of such live stock, unless it be shown that the owner, his agent or servants, immediately contributed to such killing or injury. The mere straying, or grazing unattended by a herder, of live stock upon unfenced portions of such railroad shall not be contributory negligence on the part of the owner. (Sec. 89, Ch. 51, L. '05; 3779, R. S. '13, rev.)

Construction of Statute. The statute is in derogation of the common law. *Payne v. Clifford*, (1922), 24 Ariz. 489, 496, 497, 221 Pac. 566.

Public highway crossings are not within the purview of the statute as being "any portion of the line unfenced," etc., public convenience and necessity requiring, of course, that such crossings be kept open. *Payne v. Clifford*, (1922), 24 Ariz. 489, 493, 211 Pac. 566.

Duty to Fence. This statute does not in express terms impose upon railroad companies the duty to fence their lines. The obligation arises only by implication from the imposition of the liability to pay damages. *Payne v. Clifford*, (1922), 24 Ariz. 489, 496, 211 Pac. 566.

The duty imposed by this statute is a combination of the requirement to fence and the requirement to refrain from killing and injuring livestock. Neither requirement is absolute in itself—no action will lie for the failure to fence alone, nor for the killing or injury of livestock, where a good and sufficient fence is maintained. *Payne v. Clifford*, (1922), 24 Ariz. 489, 497, 211 Pac. 566.

Liability of Railroad. The liability under this statute is absolute and can only be defeated by showing: (1) That the railroad was fenced at the place of accident as provided by law, or (2) that the owner of the animal immediately contributed to the accident. *Arizona Eastern R. R. Co. v. Matthews*, 28 Ariz. 443, 445, 237 Pac. 384.

Negligence. The basis of an action under this section is negligence. *Payne v. Clifford*, (1922), 24 Ariz. 489, 494. 211 Pac. 566.

If plaintiff, in addition to proving the facts necessary to make a prima facie case under R. C. 1928, par. 2144, plead and prove by competent evidence to the satisfaction of the court or jury the fact that the place on the company's track where the animals were killed or injured was unfenced at the time, the act of killing or injury was negligence as a matter of law, from which the company cannot escape liability, unless it affirmatively pleads and proves that the unfenced portions of its track, the scent of the killing or injury, are such portions as the law prohibits it from fencing within par. 2142, supra, or unless it be shown that the owner or his agents immediately contributed to the killing or injury. *Atchison, Topeka & S. F. R. Co. v. Carrow*, (1916), 18 Ariz. 83, 156 Pac. 961.

Pleading. It is not necessary to set forth the precise location of the fence to constitute a cause of action under this section; neither is it necessary to allege expressis verbis that such fence or other barrier was located at a place where the statute permits a fence or other barrier to be maintained. *Payne v. Clifford*, (1922), 24 Ariz. 489, 491, 211 Pac. 566.

Liability of interurban road for killing or injuring live stock running at large. 25 A. L. R. 1506.

See 22 Cal. Jur. 298; 1 R. C. L. 1169.

§2144. Killing or Injury by Railroad; Owner Driving Stock on Track. Every railroad which negligently injures or kills any horse, jack, jennie or mule, or any cattle or other domestic animal, by running a locomotive or cars against such animal shall be liable to the owner for the damages sustained by reason thereof. The killing or injury shall be prima facie evidence of negligence. If the owner or the person in charge of such animals drives the same upon the track of such company, with intent to thereby injure it or them, such owner shall be liable for all damage occasioned thereby. (Secs. 90-1, Ch. 51, L. '05; 3780-1, R. S. '13, cons. & rev.)

See notes under Pa. 2143, supra.

Provision Within Legislative Power. The legislature had the power to adopt this law. *Southern Pac. Co. v. Nelson*, (1919), 20 Ariz. 344, 345, 180 Pac. 987.

Effect of Statute. This statute changes the common-law rules as to the burden of proof and makes the killing of animals by railroad trains prima facie evidence of negligence, and places upon railroad companies the burden to rebut the presumption of negligence. Where the company introduces evidence to rebut the presumption, an issue of fact arises which should be submitted to the jury. *Southern Pac. Co. v. Nelson*, (1919), 20 Ariz. 344, 346, 180 Pac. 987.

Liability of Railroad Under Statute. Notwithstanding the statute the railroad company is only required to exercise ordinary care and caution in operating its trains, and if, in the exercise of such care and caution, cattle are killed, it is not liable. *Atchison, Topeka & S. F. R. Co. v. Carrow*, (1916), 18 Ariz. 92, 101, 156 Pac. 965.

Burden of Proof. Under this section the burden is on the plaintiff to allege and prove that the railroad company actually killed or injured any animal specified by running an engine, car or cars over or against such animal; such fact of killing is prima facie evidence of negligence on the part of the company and places it upon its defense. *Atchison, Topeka & S. F. R. Co. v. Carrow*, (1916), 18 Ariz. 83, 156 Pac. 961.

In the absence of a showing arising out of the evidence of the plaintiff or by evidence on the part of defendant that the defend-

ant was in the exercise of ordinary care in the operation of its trains at the time that the animals were killed, the plaintiff is entitled to recover upon the mere fact of the killing when established. *Atchison, Topeka & S. F. R. Co. v. Carrow*, (1916), 18 Ariz. 92, 156 Pac. 965.

Circumstantial Evidence. The fact that plaintiff's animals have been killed by a railroad company's locomotives, cars or trains may be established by circumstantial evidence. *Atchison, Topeka & S. F. R. Co. v. Carrow*, (1916), 18 Ariz. 83, 156 Pac. 961.

Article 8. Regulating the Slaughter of Animals.

CHAPTER 15. (House Bill No. 39)

AN ACT

To amend section 3739, revised statutes of Arizona, 1913, civil code, now in force; section 2145 of chapter 48, revised code of 1928, relating to the sale of neat animals; and repealing all acts and parts of acts in conflict herewith.

Be it enacted by the legislature of the State of Arizona:

Section 1. Section 3739, Revised Statutes of Arizona, 1913, Civil Code, now in force and Section 2145 of Chapter 48, Revised Code of 1928, be and the same are hereby amended to read as follows:

Section 2145. It shall be unlawful for any person to slaughter any horned or neat cattle, sheep or goats for sale, or exchange unless he has a license therefor issued in accordance with the provisions of this article; except persons who may slaughter not exceeding five head of neat or horned cattle, or twenty sheep or goats, in any one calendar year, other than range stock, and the meat whereof is not disposed of or exposed for sale or other disposition in any city, town, or mining camp wherein any person is licensed to slaughter under the provisions hereof.

Section 2. All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

CHAPTER 13 (Senate Bill No. 33)

AN ACT

To amend section 2146, revised code of 1928, relating to the sale of uninspected meat of neat animals and providing a penalty for violations, and declaring an emergency.

Be it enacted by the legislature of the State of Arizona:

Section 1. That Section 2146, Revised Code of 1928, be and the same is hereby amended to read as follows:

Section 2146. It shall be unlawful for any person to sell, give or exchange the meat of any neat animal, slaughtered in this state, unless such animal was inspected before slaughtering, and the meat and hide inspected after it has been killed. The meat and hide

of such slaughtered animal shall be stamped on the legs, side, neck and shank of both sides with the words, "Arizona Inspected and Passed." The hide shall be attached to the carcass until the inspection and stamping by the live stock inspector. A violation of this section shall constitute a felony.

Section 2. Whereas, the preservation of the public peace, health and safety makes it necessary that the provisions of this act shall become operative immediately, an emergency is hereby declared to exist, and this act is therefore hereby exempt from the operation of the referendum provisions of the State Constitution, and shall take effect and be in full force and effect from and after its passage and its approval by the governor.

§2147. Slaughter House Regulations; License and Bond; Penalty. Every person licensed to engage in the slaughter of live stock for sale in this state, shall slaughter all such animals in a fixed and definite slaughter house or slaughter pen, to be kept by such person for that purpose, or in the slaughter house established by the authorities of an incorporated city or town. Before such person shall begin, or carry on the business of slaughtering, he shall first procure from the Live Stock Sanitary Board a license upon a written application therefor, and shall execute upon a blank form furnished by the board, a bond to the state, in the penal sum of one thousand dollars, to be approved by the chairman of the board, conditioned that such person shall comply with the law and shall not slaughter, sell or expose for sale any neat animal or the meat thereof, without first being the owner thereof, and that if such person shall slaughter or sell, or expose for sale, any neat cattle or the meat thereof without being the owner thereof, he will pay therefor double the value of any such animal, the same to be recovered by action on said bond in the name of the owner of such animal. The amount recovered shall be paid as follows: One-half to the owner of such animal, one-fourth to the inspector or person discovering the wrongful possession or slaughtering of such animal, and the remaining one-fourth to the general fund of the state. (Sec. 53, Ch. 51, L. '05; 3740, R. S. '13, rev.)

Power to prescribe the manner or conditions under which slaughterhouse shall serve public. 46 A. L. R. 1486.

§2148. Licenses, Slaughtering Without Prohibited; Penalty. The board may grant an applicant, on the payment of the fees and the presentation of proof of good moral character upon the part of the applicant, a license to slaughter cattle, sheep and goats, as may be set forth in such license. If such slaughter business is to be carried on in, or within four miles of, any town of more than five thousand inhabitants, the applicant shall pay one hundred fifty dollars per annum; if in, or within four miles of, any town of three thousand or more

and less than five thousand inhabitants, one hundred twenty dollars per annum; if in, or within four miles of, any town of one thousand or more and less than three thousand inhabitants, ninety dollars per annum; in all other cases thirty dollars per annum for such slaughtering licenses, all licenses to designate a definite place in which the slaughtering is to be done.

No license shall be issued for a shorter term or less proportionate rate of fee than from the date of its issuance up to the following December thirty-first. Any person who slaughters animals for sale for food, shall obtain a special license, which shall designate the place where such person intends to slaughter and from what live stock, showing the name of the owner, brands and other identifying marks of animals and the number to be slaughtered under that special license, which shall not be more than five head of cattle nor more than twenty sheep or twenty goats. Only one special license shall be issued to any applicant in any one year.

It shall be a misdemeanor for any person to slaughter any such animal for sale for food, or to offer for sale any portion thereof, without first procuring a license, and the possession of the carcass, or of any portion of the meat of any such animal shall be prima facie evidence of a violation of this section. For good cause shown, the board may, by an order entered upon its minutes, after notice to the holder of such license of its intention so to do, revoke any license issued hereunder. (Sec. 54, Ch. 51, L. '05; 3741, R. S. '13, am., 1, Ch. 97, L. '21, & Ch. 77 L. '27, rev.)

§2149. Producers May Slaughter For Own Use. Producers who kill or slaughter animals for the sole purpose of using the meat thereof for food for themselves, their immediate family and employees, need not have such animals inspected before killing, but all animals to be slaughtered by the producer thereof, the meat of which is to be sold, shall be inspected. The term "producers" shall include the owners of herds and the proprietors, tenants and the occupants of lands and premises whereon the animals are raised or prepared for market. The hide of every animal slaughtered under permission hereof with brands and marks thereon, shall be hung up in a conspicuous place on premises where the animal is slaughtered, and remain there until such hide is inspected and tagged. (Sec. 6, Ch. 20, L. '12; 3743, R. S. '13, am., 2, Ch. 97, L. '21.)

§2150. Imported Meat Subject to Regulations. Any person importing the meat of any domestic animal for sale for food, or offering for sale the meat of any domestic animal, whether fresh, salt or dried, that has not been slaughtered under the provisions of this article, or has not passed the inspection of a United States government meat inspector, shall be subject to the same

license fees, regulations and penalties as prescribed for persons slaughtering animals for the sale of meat in this state. (Sec. 56, Ch. 51, L. '05; 3744, R. S. '13 rev.)

§2151. Owner to Cause Animals To Be Inspected Before Slaughtering For Sale. Five days before any producer shall slaughter any domestic animal intended for sale for food, he shall give written notice thereof to an inspector. The notice shall describe the animal intended to be killed; give the name of the owner; the brands and marks thereon, and the age and sex of such animal, and specify the place where it is intended to slaughter the animal. The inspector shall inspect the animal, or he may designate two persons who shall be disinterested landowners and not related to the person intending to slaughter such animals, who shall proceed to do so and report the result of such inspection to the inspector appointing them, and transmit a duplicate report of their inspection to the board. (Sec. 7, Ch. 20, L. '12; 3746, R. S. '13, am., 3, Ch. 97, L. '21, rev.)

§2152. Manner of Inspection; Statement To Be Filed. The inspection shall be made by daylight, and a statement made showing when and where the examination is made, the name of the owner, and the character of the animal, a full description, including color and brand, if any brand; and if it is well, sound, and fit for food. The owner, within ten days after such inspection, shall deposit such statement with the county recorder of the county wherein such inspection is made and shall preserve the hide of such animal for inspection. The recorder shall receive no fee, but shall preserve such statement for public inspection for a period of six months. (Sec. 8, Ch. 20, L. '12; 3747, R. S. '13, rev.)

§2153. Penalty For Failing to Have Inspection and File Statement. If any producer shall slaughter for food any domestic animal, or sell or offer for sale any such slaughtered animal or any part thereof, that has not been inspected and found to be well, sound, and fit for food, or shall fail to deposit the statement made by the inspector, or fail to keep the hide of any animal slaughtered by him, for inspection as provided by law, he shall be guilty of a crime, and shall be punished by imprisonment not exceeding six months, or by fine of not more than one thousand dollars. (Sec. 9, Ch. 20, L. '12; 3748, R. S. '13, rev.)

§2154. No Other Tax Against Producer; Seller to Exhibit Hide; Possession of Carcass Without Compliance; Penalties. No other tax, license or fee shall be imposed or collected from any producers herein defined, because of a sale of any such products; nor shall any other penalty be imposed upon him on account of such sale, except as provided in this article; nor shall any town or city impose any tax, fee or penalty, save that of inspection; and no municipal ordinance providing for

such inspection shall be valid unless it applies in precisely the same manner and upon precisely the same terms to others offering similar products for sale.

No person, whether a producer or not, shall offer for sale the meat of any such animal unless he has the full hide of that animal in his possession at all times while so selling or peddling the meat, and shall exhibit the hide thereof to any inspector or other officer of the board, upon demand. Any person failing to do either of the things above provided, respecting the hide of animals, whose meat is offered for sale, shall be guilty of a misdemeanor. The possession by any person of any carcass, or any edible part thereof, of any cattle, sheep or goat slaughtered otherwise than in compliance with the provisions of this article, shall be deemed to be an unlawful possession and such person shall, upon the demand of any sheriff, constable or inspector state to such officer where and the name of the person from whom such meat was obtained. If he claims to have slaughtered the animal from which said meat was taken, he shall exhibit to such officer the whole hide of such animal slaughtered; if he claims that such meat was procured from another person, then, upon demand made, that person shall forthwith exhibit the whole hide of such animal slaughtered and from which meat was taken. Any person who refuses to give such information, or who gives false information or fails or refuses to exhibit the hide, when the animal has been slaughtered by him, shall be prima facie guilty of having slaughtered from which such meat was obtained, in violation of law, and for such violation he shall be guilty of a misdemeanor. (Sec. 10, Ch. 20, L. '12; 3749, R. S. '13, am., 4, Ch. 97, L. '21, rev.)

§2155. Inspection of Animals and Hides at Slaughter House. Any person carrying on the business of slaughtering animals, shall notify the nearest inspector of the location of his slaughter house and of the time when it is proposed to slaughter any such animals, and no animal shall be slaughtered until inspected and certified to by the inspector as being the property of the person slaughtering it, or that he is authorized to slaughter it. The board shall prepare the certificates in blank, and the inspector shall keep a copy of each certificate issued, in a book. When such animal is slaughtered, the inspector shall inspect the hide, and tag the same on the left side of the neck, with a tag seal to be furnished by the board. For each animal and hide so inspected the butcher shall pay the inspector, at the time the hide is inspected and before it is tagged, the sum of ten cents, in payment for inspecting the live animal, and inspecting and tagging the hide. (Sec. 58, Ch. 51, L. '05, am., Ch. 5, L. '13, 2nd S. S.; 3750, R. S. '13, rev.)

The service required by this statute, (laws 1897, Act No. 6, sec. 39), is intended for the protection of both the butcher and the public, and its reasonable recompense cannot be considered a tax toll,

impost or municipal fine within the meaning of R. S. 1887, Pars. 592, 593, relating to jurisdiction on appeal. Phoenix Wholesale Meat Co. v. Moss, (1901), 7 Ariz. 274, 276, 64 Pac. 443.

§2156. Record of Inspection; Violations; Penalty. A duplicate record of all inspections shall be sent to the board, and triplicate given to the butcher. Any person selling, removing or secreting any hide or hides, or detaching, obliterating or defacing from or upon the hide any mark or brand before they are inspected and tagged shall be guilty of a misdemeanor. (Sec. 59, Ch. 51, L. '05; 3751, R. S. '13, rev.)

§2157. Purchase of Uninspected Hide Unlawful. It shall be unlawful for any person to purchase or otherwise acquire possession of any hide of horned or neat cattle until they are inspected and tagged, and the possession of such untagged hide, shall be a misdemeanor, unless the person possessing such hide can show that the same was taken from an animal owned by him at the time of slaughter, or death, or that he had written authority from the owner to remove the hide from such animal. (Sec. 60, Ch. 51, L. '05; 3752, R. S. '13.)

§2158. Slaughter Houses to Keep Record of Animals; Penalty For Failure. Every person who shall carry on the business of slaughtering horned cattle or swine in this state, shall keep a true record in a book kept for that purpose, of all live stock purchased or slaughtered by him, with a description of all animals so purchased or slaughtered, the marks and brands of such animals, the name and residence of the person from whom purchased and the date of such purchase; and shall at the end of each month make a true copy of such record under oath, and deliver the same to the inspector of his district. Every such person who fails to keep such record, or who fails to deliver a true copy of the record or who refuses to exhibit, to any person demanding it, the said record, is guilty of a misdemeanor, and shall be fined in a sum not less than ten nor more than one hundred dollars for every day he shall have failed to comply. (Sec. 61, Ch. 51, L. '05; 3753, R. S. '13, rev.)

§2159. Transportation of Uninspected Hides Unlawful; Penalty. It shall be unlawful for any person to receive for transportation any hides until they have been inspected and tagged. Any person violating this section shall be guilty of a crime, and fined not less than one hundred and not more than five hundred dollars. (Sec. 62, Ch. 51, L. '05; 3754, R. S. '13, rev.)

RULES AND REGULATIONS

Of the Live Stock Sanitary Board of the State of Arizona

RULES

All live stock inspectors are required to be familiar with the live stock laws of the State pertaining to their duties as such inspectors; and their attention is especially directed to the following, to-wit:

Requiring inspectors to report their official acts to the Board. No monthly demands for compensation for services will be approved unless such reports have been fully rendered.

Before any new brand shall be accepted for record and recorded in the State Brand Book, the same shall be published in some newspaper, journal or bulletin published in the state, for at least two successive weeks, and shall thereafter be held without record in the office of the Live Stock Sanitary Board for at least ten days, pending the filing of any objection to the record of such brand on account of conflict with or infringement upon any previously recorded brand.

RULES AND REGULATIONS FOR IMPORTATION OF LIVE STOCK

The following rules and regulations are hereby adopted and prescribed to govern the admission of live stock into the State of Arizona:

1. From and after this date it shall be unlawful for live stock of any class to be transported by rail or boat, shipped, driven or moved in any manner whatsoever into the State of Arizona from any state or territory or country, except upon the written permission of the State Veterinarian, who will be governed by the following rules in issuing permits:

2. Transportation companies should see that health certificates according to Rules 3, 4, 5, 6, 7, and 8 are attached to way-bills of shipments of live stock destined to points in Arizona.

Transportation companies, before entering the State with live stock, must inform the State Veterinarian at Phoenix, stating:

(a) Name of consignor and point of origin of shipment.

(b) Name of consignee and destination of shipment.

(c) Whether or not shipment is accompanied by a certificate of health, and if so, by whom signed, **and receive written authority for the admission of same.**

3. All persons desirous of shipping or driving live stock of any class into the State of Arizona should secure at point of origin a certificate of health for the same from the Government, State or County Veterinarian, according to requirements of following rules, declaring the said animals to be free from all contagious and infectious disease. A copy of said health certificate

should be sent to the State Veterinarian at Phoenix as early as possible, and a copy should always be attached to the way-bill accompanying the shipment. (Duplicate blanks for certificates will be furnished on application).

4. Cattle originating in Colorado, Kansas, Nebraska, Missouri, Oklahoma and Northern Texas will be admitted into Arizona if accompanied by a health certificate signed by a Government or State Veterinarian only, who is familiar with conditions at point of origin of same, certifying that they are free from all contagious diseases, including cattle scabies, or mange. Cattle offered from said districts not accompanied by such certificate will be inspected by the State Veterinarian at point of entry to the state, and treated or quarantined, as the exigencies of the case require, until free from infection. The legal mileage of the Veterinarian to inspect such stock must be paid by the owner of the same.

5. Shipments of dairy and breeding cattle must be accompanied by health certificate including tuberculin test. Cattle to be held in segregated pasture and subject to re-test for sixty days at the expense of the owner.

6. Horses, mules, etc., will be admitted to the State upon presentation of a certificate signed by a Government, State or County Veterinarian, or any graduate veterinarian, certifying that they are free from all contagious diseases.

7. All classes of sheep will be admitted to the State if accompanied by certificate signed by an authorized veterinarian.

8. Railroad and express companies are hereby notified that all shipments of swine, except those for immediate slaughter, destined for points in the State must not only be accompanied by certificate of health, but, in addition, be examined by the State Veterinarian. Such importations must be kept entirely separate from native swine by the owner until he receives from the State Veterinarian written notices that they are free from infection that might have been contracted in transit.

9. All importations of live stock from the Republic of Mexico, shipped or driven directly into Arizona, will be admitted on certificate of United States Government Veterinarian, except cattle entering at points where splenic fever has been reported recently. At such points the Board reserves the right to inspect and place in temporary quarantine, if necessary, importations of cattle destined for points in Arizona.

10. When application is made for the admission of live stock into the State, not accompanied by proper health certificate, the State Veterinarian may inspect said stock at point of entry into the State before issuing such permit, and the owner of said stock shall pay the State Veterinarian his legal mileage to make such inspection.

11. Stock may be shipped through Arizona, when not unloaded, whether accompanied by a certificate of health

or not, but if unloaded in the State, the Board reserves the right to designate what corrals shall be used for stock not accompanied by health certificate.

CATTLE ORIGINATING SOUTH OF THE UNITED STATES QUARANTINE LINE

12. The Live Stock Sanitary Board adopts the regulations made by the U. S. Department of Agriculture governing the handling of cattle originating south of the United States quarantine line established from time to time, in addition to the following rules:

13. Cattle from below the United States quarantine line may enter Arizona to pass through by rail without certificate or bill of health, provided that such shipments are reported to the State Veterinarian and are not unloaded in the State, except in quarantine corrals for the purpose of feeding and watering for a period not exceeding twenty-four hours.

14. Cattle from points in the United States south of the United States quarantine line will be admitted by rail, for immediate slaughter, in Arizona, provided they are consigned to parties who have built special quarantine slaughter pens immediately adjoining the railroad, in accordance with the regulations of the U. S. Department of Agriculture and the special rules of the Live Stock Sanitary Board.

(Special rules of board furnished on application.)

15. All cars carrying cattle from the quarantine area shall bear on both sides printed manila placards not less than 5½ by 8 inches in size the letters of which shall be plain and not less than 1½ inches in height, to be affixed by the railroad company hauling the same, stating that said cars contain "Southern Cattle"; and each of the way-bills, conductor's manifests and bills of lading of said shipments by cars or boats shall have a note plainly written or stamped upon its face with a similar statement. The placards shall state the name of the place from which the shipment was made, with the date and the name of the place of destination; said date must correspond with the date of the way-bill and other papers. Whenever any cattle have come from said area and shall be reshipped from any point at which they have been unloaded to other points of destination, or are transferred to another transportation company, the cars carrying said animals shall bear on both sides similar placards with like statements, and the way-bills, conductor's manifests, or bills of lading of said shipment by cars or boats shall be so marked. At whatever point these cattle are unloaded, they must be placed in separate pens, to which no other cattle shall be admitted without the written order of the State Veterinarian. This applies especially to instances where cattle are unloaded in other than quarantine corrals on account of accident or delay. Such instances must be reported immediately to the State Veterinarian.

16. The cars and boats used to transport such animals, the chutes, alley-ways and pens used during transportation, and at points of destination shall be disinfected, when ordered, in the following manner:

(a) Remove all litter and manure. This litter and manure may be disinfected by mixing it with lime or saturating it with a 5 per cent solution of 100 per cent carbolic acid; or it may be thoroughly burned.

(b) Wash the cars and the watering and feeding trough with water until clean.

(c) Saturate the entire interior surface of the cars, including the interior surface of the doors, and the fencing, troughs, chutes and floors of the pens, with a mixture made of 1½ pounds of lime and ¼ pound of 100 per cent carbolic acid in each gallon of water, or a solution made by dissolving 4 ounces of chloride of lime to each gallon of water may be used.

17. Cars used within the quarantine district for the transportation of southern cattle must not be brought into the State of Arizona for use in transporting either live stock or merchandise unless they have been previously disinfected according to Section "C" of Rule 16; except when loaded with cattle in course of transportation in accordance with these regulations.

Violation or evasion of any of the foregoing Rules and Regulations will be subject to penalty as provided in Chapter 48, 1928 Revised Code of Arizona.

Superintendents of railroads will report as early as possible all shipments of live stock in transit into or through the State, as directed herein, and they will be given proper direction as to handling and shipments; thus avoiding delays and unnecessary expense.

All inspectors at various shipping points in Arizona are required to familiarize themselves with the foregoing Rules and Regulations, and report any violation of same.

RULE FOR SALE OF STRAYS

Stray stock may be sold under the following rules adopted by the Live Stock Sanitary Board:

Rule 1. A "stray" is an animal whose owner is unknown, or for which there is no claimant or contestant.

Rule 2. Strays may be sold by live stock inspectors, an "Inspector's Bill of Sale" issued to the purchaser and the proceeds of the sale, together with a duplicate copy of the bill of sale, sent to the Live Stock Sanitary Board to be credited to the Stray Fund.

Rule 3. Upon satisfactory proof of ownership of any animal so sold being furnished, the Board may pay the proceeds from such sale to the claimant.

Rule 4. The sale of stray horses is made subject to ratification by the rightful owner, should he appear and be unwilling to accept the amount received by the Board from such sale. The proven owner will be legally entitled to recover his horse, and the purchaser must take back the amount which he paid for the animal.

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