

LEGISLATIVE BILL 573

Approved by the Governor May 12, 1983

Introduced by Haberman, 44; Pappas, 42; Remmers, 1;
Chronister, 18; R. Peterson, 21; Wiitala,
31

AN ACT relating to livestock; to adopt the Nebraska Bovine Brucellosis Act; to change branding provisions; to amend section 54-132, Reissue Revised Statutes of Nebraska, 1943; to provide penalties; and to repeal the original section, and also sections 54-1331, 54-1332, and 54-1334 to 54-1347, Reissue Revised Statutes of Nebraska, 1943, and section 54-1333, Revised Statutes Supplement, 1982.

Be it enacted by the people of the State of Nebraska,

Section 1. Sections 1 to 18 of this act shall be known and may be cited as the Nebraska Bovine Brucellosis Act.

Sec. 2. As used in sections 1 to 18 of this act, unless the context otherwise requires:

(1) Brucellosis, also known as Bang's disease, shall mean the disease wherein an animal is infected with Brucella Abortus or contagious abortion, Brucella Suis, or Brucella Melitensis;

(2) Animal shall mean cattle and bison;

(3) Livestock shall mean cattle and bison;

(4) Department shall mean the Department of Agriculture;

(5) Market livestock shall mean animals of an age, sex, and status set out in regulations promulgated under sections 1 to 18 of this act, which animals shall be subject to testing under the market livestock brucellosis testing program;

(6) Eligible animals shall mean animals of an age, sex, and status set out in regulations promulgated under sections 1 to 18 of this act, which animals shall be subject to testing under the brucellosis eradication program;

(7) Testing shall mean the taking of an official test for the presence of brucellosis designated in the regulations promulgated under sections 1 to 18 of

this act:

(8) Negative shall mean an animal that has been tested for brucellosis and determined not to have the disease;

(9) Reactor or infected animal shall mean an animal that has been tested for brucellosis and determined to be infected with the disease;

(10) Suspect shall mean an animal that has been tested for brucellosis and, based upon the test results, cannot be clearly classified as either negative or a reactor without further testing or other epidemiological evaluation;

(11) Exposed animals shall mean animals that either are part of a herd in which a reactor has been present, or animals that have had a reasonable opportunity to come in contact with an infected herd or a reactor. Exposed animals shall include animals in a herd adjacent to an infected herd;

(12) Infected herd shall mean a herd that contains or has contained an infected animal and has not yet been released from quarantine;

(13) Exposed herd shall mean a herd containing an exposed animal; and

(14) Herd shall mean a group of animals of like species maintained on common ground, or two or more groups of animals under common ownership or control on separate premises with an interchange of animals.

Sec. 3. The department shall continually conduct a market livestock brucellosis testing program. Under the program, the department may require the brucellosis testing of market livestock whenever such animals are moving in commerce through markets, concentration points, or slaughter establishments, or whenever market livestock are sold at private treaty. The provisions of the market livestock brucellosis testing program shall be set out in adopted and promulgated rules and regulations.

Sec. 4. The department shall continually conduct a brucellosis eradication program. Under the program, the department shall quarantine and require the brucellosis testing of eligible animals that are known to have been exposed to animals infected with or exposed to brucellosis, and animals reasonably suspected of having been so exposed. Under the brucellosis eradication program, the department shall also quarantine and require the brucellosis testing of eligible animals imported into Nebraska in violation of brucellosis-related importation requirements. In addition, the department may prohibit the addition of animals into known infected or exposed herds. The provisions of the brucellosis eradication program shall be set out in duly adopted and promulgated rules and regulations.

Sec. 5. (1) Whenever brucellosis testing is performed under section 4 of this act, or under section 3 of this act with respect to a sale at private treaty, the owner of the animals shall be responsible for gathering, confining, and restraining the animals to be tested, and shall provide the necessary facilities and assistance. With respect to tests conducted at markets, concentration points, or slaughter establishments the responsibility shall be borne by the owner of the establishment.

(2) Any person failing to carry out the responsibilities set out under subsection (1) of this section shall be guilty of a Class IV misdemeanor.

(3) Whenever any person fails to carry out the responsibilities set out under subsection (1) of this section, the department shall perform such functions. Upon completion of the testing, the department shall determine its actual costs incurred in handling the livestock and conducting the testing, and notify the responsible person in writing. The responsible person shall reimburse the department its actual costs within fifteen days following the date of the notice. Any person failing to reimburse the department as required shall be assessed a penalty of up to twenty-five per cent of the amount due for each thirty days of delinquency.

(4) All money received by the department under subsection (3) of this section shall be deposited into the Brucellosis Control Cash Fund, which fund is hereby created. Expenditures from the Brucellosis Control Cash Fund may be made to conduct brucellosis testing under sections 1 to 18 of this act. Any money in the fund available for investment shall be invested by the state investment officer pursuant to sections 72-1237 to 72-1269.

Sec. 6. Whenever reactors are disclosed on a brucellosis test, it shall be the responsibility of the owner to see that such animals are properly branded and promptly moved to slaughter. The requirements of the department governing the handling of reactor animals shall be set out in duly adopted and promulgated rules and regulations.

Sec. 7. Whenever exposed animals are moving in commerce, it shall be the responsibility of the owner to see that such animals are properly branded, if so required by the department, and to move such animals in accordance with any restrictions imposed by the department. The requirements of the department governing the handling of exposed animals shall be set out in duly adopted and promulgated rules and regulations.

Sec. 8. Following the removal of infected or exposed animals, the premises shall be cleaned and

disinfected by the owner under the supervision of the department, in accordance with the rules and regulations duly adopted and promulgated by the department.

Sec. 9. (1) The department shall develop and administer an official brucellosis vaccination program. The provisions of the program shall be consistent with good animal health practice in the control and eradication of brucellosis, and shall be set out in duly adopted and promulgated rules and regulations.

(2) For the protection of the livestock industry and to aid in achieving the purposes of sections 1 to 18 of this act, the department shall regulate the sale and use of brucellosis vaccine. The department may restrict the sale and use of brucellosis vaccine to qualified persons and shall require detailed recordkeeping and reporting by persons involved in the sale or use of vaccine. The regulation of brucellosis vaccine shall be set out in duly promulgated regulations.

Sec. 10. The department shall require specific forms of identification to be applied to livestock subject to the provisions of sections 1 to 18 of this act, and to require appropriate recordkeeping and reporting regarding such identification by persons owning or handling such livestock. The requirements of the department governing the identification of livestock subject to the provisions of sections 1 to 18 of this act shall be set out in duly promulgated regulations.

Sec. 11. Whenever, in accordance with the provisions of sections 1 to 18 of this act, livestock are required or designated to move to a particular destination, it shall be unlawful to divert the livestock from such destination without having first obtained permission from the department. Any person unlawfully diverting livestock or directly or indirectly removing or altering the identification of livestock to be so moved shall be guilty of a Class IV misdemeanor.

Sec. 12. In adopting and promulgating rules and regulations governing the handling of brucellosis infected or exposed animals, or animals reasonably suspected of being infected or exposed, the department may require persons to obtain permits from the department prior to engaging in designated activities. Such persons may also be required to maintain necessary records in conjunction with such activities or to file reports with the department.

Sec. 13. In administering sections 1 to 18 of this act and conducting the programs authorized under such sections, the department shall cooperate with the United States Department of Agriculture and, insofar as reasonably practical, conform its activities to the provisions of that department's guidelines known as the Uniform Methods and Rules for Brucellosis Eradication.

Sec. 14. All activities in connection with the implementation of sections 1 to 18 of this act shall be available to livestock owners without expense as long as funds for such activities have been appropriated and are available, except for the cost of handling livestock and the cost of brucellosis vaccine. When funds are not available, the owner shall nevertheless continue the program at his or her own expense.

Sec. 15. In administering sections 1 to 18 of this act, the agents and employees of the department shall have access to any premises where livestock may be, when such persons have reasonable cause to believe that such livestock may be infected with or may have been exposed to brucellosis.

Sec. 16. The department shall adopt and promulgate rules and regulations to aid in implementing sections 1 to 18 of this act. The rules and regulations may include, but need not be limited to, provisions governing:

(1) The conduct of the market livestock testing program, including provisions governing when, where, how, and by whom testing is to be done; what animals are to be tested; and how test results are to be recorded and reported;

(2) The conduct of the brucellosis eradication program, including when, where, how, by whom, and how often testing is to be done; what animals are to be tested; and how test results are to be recorded and reported. The rules and regulations may also include provisions designed to maintain or enhance the federal designation of brucellosis areas within the state, and provisions for certifying herds for brucellosis status;

(3) The issuance and release of brucellosis quarantines, and the requirements regarding the handling, movement, and disposition of livestock under quarantine;

(4) The testing of livestock to detect brucellosis, including which tests are to be deemed official, by whom the tests are to be administered, how the tests are to be conducted, the reaction tolerances to be recognized, and the classification of results as to negative, suspect, or reactor animals. These rules and regulations shall be consistent with the best available scientific information relative to the control and eradication of brucellosis;

(5) The assessment of penalties under subsection (3) of section 5 of this act;

(6) The branding and disposition of reactors, including the brand to be used and how it is to be placed, and when and how branding and shipment to slaughter are to be performed;

(7) The branding and handling of exposed animals, including the brand to be used and how it is to

be placed, and when and how branding and movement are to be performed;

(8) The cleaning and disinfecting of premises, including the materials to be used, the procedures to be used, and when such procedures are to be performed;

(9) The official brucellosis vaccination program, including the vaccines allowed to be used, the permitted concentrations, the age of the animals to be vaccinated, the effect of vaccination on the interpretation of test results, and the sale and use of vaccine;

(10) The identification of animals subject to sections 1 to 18 of this act, including exposed and infected animals, vaccinated animals, and animals tested and to be tested;

(11) The issuance of permits under section 12 of this act;

(12) Compliance with the provisions of the Uniform Methods and Rules for Brucellosis Eradication;

(13) The payment for activities and services conducted under sections 1 to 18 of this act, and the payment of indemnity;

(14) The preparation, maintenance, handling, and filing of records and reports by persons subject to sections 1 to 18 of this act, regarding activities performed in accordance with sections 1 to 18 of this act, including the vaccination, testing, branding, or movement of animals that may have been infected with or exposed to brucellosis; and

(15) Any other areas deemed necessary by the department to effectively control and eradicate brucellosis.

Sec. 17. (1) The department may apply for a restraining order or a temporary or permanent injunction, or mandatory injunction, against any person violating or threatening to violate sections 1 to 18 of this act or the requirements of the rules and regulations adopted and promulgated under sections 1 to 18 of this act, in order to insure compliance with such provisions. The district court of the county where the violation is occurring or is about to occur shall have jurisdiction to grant such relief upon good cause shown. Relief may be granted notwithstanding the existence of any other remedy at law and shall be granted without bond.

(2) It shall be the duty of the county attorney of the county in which any violation occurs or is about to occur, when notified of such violation or threatened violation by the department, to cause appropriate proceedings under subsection (1) of this section to be instituted and pursued without delay.

Sec. 18. Any person violating sections 1 to 18 of this act shall, unless another penalty is

specifically provided, be guilty of a Class IV misdemeanor.

Sec. 19. That section 54-132, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

54-132. It shall be the duty of every person when spaying heifers, upon request of the owner thereof, to brand such heifers with an O on the left jaw, and to furnish the owner with a certificate that all heifers so branded have been properly spayed by a licensed veterinarian. Permission may be granted by the Nebraska Brand Committee to state and federal animal disease control agencies to require the use of the letters V, B, S, and T on either the right or left jaw of cattle in a manner consistent with animal disease control laws. In addition, permission may be granted to use the letter S high on the tailhead.

Sec. 20. That original section 54-132, Reissue Revised Statutes of Nebraska, 1943, and also sections 54-1331, 54-1332, and 54-1334 to 54-1347, Reissue Revised Statutes of Nebraska, 1943, and section 54-1333, Revised Statutes Supplement, 1982, are repealed.