

**ONE HUNDREDTH LEGISLATURE - SECOND SESSION -
2008**

COMMITTEE STATEMENT

LB788

Hearing Date: January 22, 2008

Committee On: Agriculture

Introducer(s): (Erdman)

Title: Adopt the Anthrax Control Act

Roll Call Vote - Final Committee Action:

Placed on General File with Amendments

Vote Results:

6 Yes Senators Dierks, Dubas, Erdman, Karpisek,
 McDonald, Preister

0 No

2 Absent

Senators Chambers, Wallman

0 Present, not voting

Proponents:

Dennis A Hughes
Neil Moseman

Representing:

Nebraska Department of Agriculture, Introducer
Nebraska Department of Agriculture

Larry Williams
Pete McClymont

Opponents:

Neutral:

Nebraska Veterinary Medical Association
Nebraska Cattlemen

Representing:

Representing:

Summary of purpose and/or change:

LB 788 – Committee Statement Text

LB 788 updates authorities of the Department of Agriculture relating to anthrax to incorporate current veterinary and epidemiological practices common to other livestock disease response programs. The bill adopts wholly new provisions as the Anthrax Control Act and repeals existing anthrax provisions in §54-754 through §54-763 although elements of existing law are carried over into section 1 – 18 as modified. The most significant differences between current law and LB 788 include the following:

- LB 788 does not carry over the concept of eradication as the ability to eradicate anthrax is limited due to the long-term viability of anthrax spores.
- The current statute does not give the Department express authority to cooperate with other entities should that be necessary, such as a bioterror attack or a large outbreak, which would require the Department to work with USDA or some other appropriate entity.
- The current statute identifies burial depth at no less than four feet, and for anthrax affected animals, the depth should be at least six feet. The current law also does not provide additional latitude for the Department to direct other methods of disposal. The bill does provide such latitude which allows any additional methods that are better suited to the circumstances to be used.
- Removes express or implied liability of the state of Nebraska for costs incurred by owners of affected animals for cost associated with treatment, quarantine, disposal, etc of animals affected by anthrax.
- The current statute does not expressly describe the length for a quarantine of premises. As anthrax spores can remain in the soil for lengthy periods of time, it might be necessary for the Department to quarantine just a premise once livestock on the premises have been vaccinated.
- Requires development of a herd plan that is not required under current law. This is an essential part of a control program, as it allows for flexibility in carrying out activities associated with vaccinating, testing, cleaning and disinfection, and disposal of carcasses.
- The current statute requires disinfection of the property where the animals were kept. However, disinfection, cleaning, or both, are not always possible or reasonable due to the type or size of the premises involved. LB 788 allows greater flexibility than under current law to deal with each case as is epidemiologically feasible.
- Adds specification regarding requirements associated with vaccination, such as sale of vaccine; recordkeeping for sale of vaccine and type of vaccine.
- Current law does not have the new language included in sections 9, 11, 14, 16, and 17 that are common to other similar disease response programs.

Section-by-section summary:

Section 1 Names the act the Anthrax Control Act.

Section 2 States the purpose of the act is to prevent, suppress, and control anthrax to protect the health of Nebraska's livestock.

Section 3 Establishes definitions for use in the act.

Section 4 Provides authority to the Department of Agriculture to: (1) cooperate and contract with any person, including local, state, or national entities for the performance of activities required pursuant to the act; (2) employ all general powers and duties to administer and enforce the act; (3) require herd owner or custodian of an affected herd to pay for costs related to the quarantine, testing, or vaccination of an affected herd; the disinfection or cleaning of affected premises; and any other costs associated with the control of anthrax in such herd; (4) have access to any premises where livestock are suspected to be infected with

anthrax for the purpose of inspections, tests, or treating or enforce quarantines. (5) Allows the department to delegate to appropriate personnel any responsibilities for the proper administration of the act and (5) grants authority to adopt regulations concerning the establishment of procedures for the: testing, vaccination, quarantine, cleaning and disinfection of premises, and any other regulations necessary to carry out the act and to designate approved laboratories for the diagnosis and confirmation of anthrax.

Section 5 Imposes a duty on all persons to immediately report animals exhibiting signs consistent with anthrax.

Section 6 Prohibits any person from knowingly harboring, selling, or disposing of any animal or part of any animal exposed to or infected with anthrax except as provided in the Act or regulations.

Section 7 Grants authority to immediately quarantine animals and premises affected by anthrax, and prohibits any person to remove an animal from quarantine until directed to do so by the State Veterinarian.

Section 8 Requires the herd owner or custodian to develop a herd plan in cooperation with the department. Sets the parameters for development of a herd plan.

Section 9 Prohibits any person from preventing the testing, vaccination, and treatment of any affected herd. Owner of an affected herd is required to assist in anthrax examination and testing.

Section 10 Establishes the parameters for the sale and use of anthrax vaccine.

- (1) An exposed herd may be vaccinated as deemed appropriate by the State Veterinarian.
- (2) Requires infected herds to be vaccinated by accredited veterinarians licensed to practice in Nebraska or by a designee of the department.
- (3) Allows a herd owner or custodian of a nonaffected herd to purchase anthrax vaccine from an accredited veterinarian.
- (4) Only licensed and approved anthrax vaccines shall be used for the vaccination of livestock, and such vaccine shall be distributed by an accredited veterinarian licensed to practice in the state.
- (5) Requires the prescribing or administering veterinarian to maintain records of all sales and purchases of anthrax vaccine for a period of five years, and shall make such records available for departmental review during normal business hours.

Section 11 Imposes a duty on the owner or custodians of affected herds which have experienced any death loss to have samples submitted to an approved laboratory for confirmation purposes.

Section 12 Prohibits (1) the transportation of any animal or animal carcass suspected to or which have died of anthrax except under department direction and approval; (2) the use of the flesh or organs of such animal or animal carcass for food for livestock; and (3) the removal of the skin or hide of any animal or animal carcass suspected to or which have died of anthrax.

Section 13 (1) Imposes a duty on the owner or custodian of an animal which has died of anthrax to bury or burn the carcass as directed by the Department. Buried carcasses shall be buried not less than six feet from the surface of the ground.

(2) Establishes responsibility for the herd owner or custodian to clean, disinfect the premises and treat an infected herd and premises if the Department so directs.

Section 14 Confirmation of anthrax shall be made by approved laboratories.

Section 15 (1) Grants authority to the Department of Agriculture to assess and collect payment for services provided and expenses incurred in performing duties under the act.

(2) Violations of the act or regulations constitute a Class I misdemeanor.

(3) Grants authority to the Department of Agriculture to perform the owner or custodian functions under the act, should the owner or custodian fail to carry out such functions.

(4) Imposes a duty on the owner or custodian of affected animals to reimburse the department its actual costs within fifteen days following notice, and the owner or custodian shall be assessed a late fee of up to twenty-five percent of the amount due for each thirty days of nonpayment.

(5) Creates the Anthrax Control Act Cash Fund and provides that the fund shall be used to carry out the provisions of the act.

Section 16 Provides authority for the department to obtain a temporary restraining order; a temporary or permanent injunction, or mandatory injunction for enforcement of the act. The Attorney General or a county attorney is to institute appropriate proceedings when notified of the violation or threatened violation.

Section 17 The department is not liable for actual or incidental costs incurred due to departmental actions in enforcing the act.

Section 18 Violations of the act or regulations constitute a Class I misdemeanor where no penalty is otherwise provided.

Section 19 The outright repeal of sections which are no longer necessary because of the Anthrax Control Act.

Explanation of amendments, if any:

The committee amendments accomplish the following:

- Moves existing subsection 3 of section 4 of the bill as introduced to new subsection (1) of section 15. This section is current written in form of a duty of livestock owners rather than authority of the Department as enumerated in section 4. The subsection fits better with the enumeration of duties and costs that may be assigned to livestock owners under section 15.
- Inserts a new subsection (3) into section 4 authorizing the Department to expend appropriated or available state funds to carry out duties under the act on behalf of affected herd owners. This language is present in other eradication programs and specifically modeled after existing authority of the Department regarding pseudorabies.
- Adds new text to the quarantine provisions that make more explicit that placing animals under quarantine does not preclude removing animals from an infected premise. The amendment also makes explicit that placing a herd under quarantine does not preclude that different quarantine restrictions can be applied to individual animals or groups of animals within a herd based on exposure risk.

Senator Philip Erdman, Chairperson