

LEGISLATURE OF NEBRASKA
ONE HUNDREDTH LEGISLATURE
SECOND SESSION
LEGISLATIVE BILL 788

Introduced by Erdman, 47.

Read first time January 09, 2008

Committee: Agriculture

A BILL

1 FOR AN ACT relating to agriculture; to adopt the Anthrax
2 Control Act; to provide penalties; to eliminate anthrax
3 provisions and penalties; to outright repeal sections
4 54-754, 54-755, 54-756, 54-757, 54-758, 54-759, 54-760,
5 54-761, 54-762, and 54-763, Reissue Revised Statutes of
6 Nebraska; and to declare an emergency.
7 Be it enacted by the people of the State of Nebraska,

1 Section 1. Sections 1 to 18 of this act shall be known
2 and may be cited as the Anthrax Control Act.

3 Sec. 2. The purpose of the Anthrax Control Act is to
4 prevent, suppress, and control anthrax to protect the health of
5 livestock within Nebraska.

6 Sec. 3. For purposes of the Anthrax Control Act:

7 (1) Accredited veterinarian means a veterinarian approved
8 by the Administrator of the Animal and Plant Health Inspection
9 Service of the United States Department of Agriculture in
10 accordance with the provisions of 9 C.F.R. part 161, as such
11 regulation existed on January 1, 2008;

12 (2) Affected herd means a herd which contains an animal
13 or animals infected with or exposed to anthrax;

14 (3) Affected premises means the land on which is located
15 an animal or animals infected with or exposed to anthrax and
16 includes the buildings, holding facilities, and equipment located
17 on such land;

18 (4) Animal means all vertebrate members of the animal
19 kingdom except humans, fish, amphibians, reptiles, and wild animals
20 at large;

21 (5) Approved laboratory means a laboratory designated by
22 the department in rules and regulations;

23 (6) Department means the Department of Agriculture;

24 (7) Exposed means an animal or herd having or suspected
25 of having contact (a) with animals infected with anthrax spores

1 or organisms or (b) with premises which contain anthrax spores or
2 organisms;

3 (8) Herd means (a) any group of livestock maintained
4 on common ground for any purpose or (b) two or more groups
5 of livestock under common ownership or supervision geographically
6 separated but which have an interchange of livestock without regard
7 to whether the livestock are infected or exposed;

8 (9) Herd plan means a written disease management plan
9 that is designed by the herd owner or custodian in conjunction with
10 the State Veterinarian to control and eradicate anthrax from an
11 infected herd;

12 (10) Livestock means cattle, bison, swine, sheep, goats,
13 equines, and domesticated cervine animals;

14 (11) Quarantine means the restriction imposed by the
15 department (a) on the movement of an affected herd, (b) on the
16 movement of an animal or a group of animals infected with or
17 exposed to anthrax, (c) on the use of an affected premises, or
18 (d) on the use of land where anthrax spores have been found and
19 includes restriction of the buildings, holding facilities, and
20 equipment upon such land; and

21 (12) State Veterinarian means the veterinarian appointed
22 pursuant to section 81-202.01 or his or her designee.

23 Sec. 4. The Anthrax Control Act shall be administered and
24 enforced by the department. In administering and enforcing the act:

25 (1) The department may cooperate and may contract with

1 any person, including any local, state, or national organizations,
2 public or private, for the performance of activities required or
3 authorized pursuant to such act;

4 (2) The department may employ all general powers provided
5 in sections 54-701 to 54-705 and 54-742 to 54-753 in administering
6 the act;

7 (3) The owner or custodian of an affected herd or
8 affected premises shall be responsible to pay for costs related to:

9 (a) The quarantine, testing, or vaccination of an affected herd;

10 (b) the disinfection or cleaning of the premises of an affected
11 herd; and (c) any other costs associated with the control of
12 anthrax in such herd;

13 (4) For purposes of access for inspections, tests, or
14 treatments or to carry out and enforce quarantines, agents and
15 employees of the department shall have the right to enter upon any
16 premises where livestock that are infected with or are suspected
17 to be infected with anthrax are located. It shall be unlawful for
18 any person to interfere in any way with or obstruct an agent or
19 employee of the department from entering upon such premises for the
20 purposes stated in this subdivision or to interfere in any way with
21 the department in such work;

22 (5) The department may delegate to appropriate personnel
23 any of these responsibilities for the proper administration of the
24 act; and

25 (6) The department may adopt and promulgate rules and

1 regulations to aid in implementing the act. The rules and
2 regulations may include, but are not limited to establishing
3 procedures for: Testing; vaccination; quarantine; cleaning and
4 disinfection of affected premises; carcass disposal; designation
5 of approved laboratories to confirm the presence of anthrax;
6 submission of specimen samples; and diagnosis and confirmation of
7 anthrax.

8 Sec. 5. Any person who discovers, suspects, or has reason
9 to believe that an animal belonging to him, her, or another person
10 or which he or she has in his or her possession or custody is
11 exhibiting signs consistent with anthrax shall immediately report
12 such fact, belief, or suspicion to the State Veterinarian.

13 Sec. 6. It shall be unlawful for any person to knowingly
14 harbor, sell, or otherwise dispose of any animal, or carcass part
15 thereof, that has been or is exposed to or infected with anthrax,
16 except as otherwise provided in the Anthrax Control Act and any
17 rules and regulations adopted and promulgated thereunder.

18 Sec. 7. The State Veterinarian shall immediately
19 quarantine, at the expense of the owner or custodian, any affected
20 herd and the affected premises. It shall be unlawful for any
21 person to remove an animal which has been placed under quarantine
22 pursuant to the Anthrax Control Act from the place of quarantine
23 until such quarantine is released by the State Veterinarian. An
24 affected premises or any portion thereof which has been placed
25 under quarantine shall remain under quarantine until released by

1 the State Veterinarian.

2 Sec. 8. The herd owner or custodian, in cooperation with
3 the department, shall develop a herd plan which may include (a)
4 the vaccination, treatment, and testing of an infected herd, (b)
5 cleaning and disinfection of premises of an infected herd, and (c)
6 carcass disposal. A herd owner or custodian of an infected herd who
7 fails to develop a herd plan or who fails to follow the herd plan
8 is guilty of a Class I misdemeanor.

9 Sec. 9. It is unlawful for any person to prevent the
10 testing, vaccination, and treatment of an affected herd. The owner
11 or custodian of a herd ordered to be tested, vaccinated, or
12 treated shall confine such herd in a suitable place determined
13 by the department and shall furnish the necessary assistance and
14 facilities for restraining the livestock as requested by the State
15 Veterinarian.

16 Sec. 10. The sale and use of anthrax vaccine shall be in
17 accordance with the following procedures:

18 (1) The department may restrict the sale and use of
19 anthrax vaccine;

20 (2) Only anthrax vaccines which are licensed and approved
21 by the United States Department of Agriculture, Animal and Plant
22 Health Inspection Service, Veterinary Services shall be used for
23 the vaccination of livestock and such vaccines shall be distributed
24 by an accredited veterinarian licensed to practice in Nebraska;

25 (3) Records of all anthrax vaccine sales and purchases

1 shall be retained by the prescribing or administering veterinarian
2 for a period of five years. Such records shall be available for
3 examination by the department or its authorized representative
4 during normal business hours. If requested by the department, a
5 report of sales and purchases of anthrax vaccine shall be submitted
6 to the department;

7 (4) An exposed herd may be vaccinated as deemed
8 appropriate by the State Veterinarian;

9 (5) Infected herds shall be vaccinated, and such vaccine
10 shall only be administered by an accredited veterinarian licensed
11 to practice in Nebraska or by a designee of the department; and

12 (6) Herd owners or custodians of nonaffected herds may
13 purchase anthrax vaccine from an accredited veterinarian.

14 Sec. 11. For an affected herd that has experienced
15 any death loss, the owner or custodian of the herd shall be
16 responsible to have samples submitted to an approved laboratory for
17 confirmation of anthrax.

18 Sec. 12. If an animal has, or is suspected to have, died
19 of anthrax, it is unlawful to:

20 (1) Transport such animal or animal carcass, except as
21 directed and approved by the department;

22 (2) Use the flesh or organs of such animal or animal
23 carcass for food for livestock or human consumption; or

24 (3) Remove the skin or hide of such animal or animal
25 carcass.

1 Sec. 13. (1) The disposition of any infected animal
2 carcass shall be carried out under the direction of the department.
3 It shall be the duty of the owner or custodian of an animal that
4 has died of anthrax to bury or burn the carcass on the premises
5 where the carcass is found, unless directed otherwise by the
6 department. If such carcass is buried, no portion of the carcass
7 shall be interred closer than six feet from the surface of the
8 ground.

9 (2) The department may direct the owner or custodian of
10 an infected herd to treat the herd and to clean and disinfect the
11 premises in accordance with the herd plan.

12 Sec. 14. A confirmation of anthrax shall only be made by
13 an approved laboratory.

14 Sec. 15. (1) The department may assess and collect
15 payment for services provided and expenses incurred pursuant to its
16 responsibilities under the Anthrax Control Act.

17 (2) Any person failing to carry out the responsibilities
18 set out in the act and any rules and regulations adopted and
19 promulgated thereunder shall be guilty of a Class I misdemeanor.
20 Whenever any person fails to carry out such responsibilities under
21 the act, the department may perform such functions. Upon completion
22 of the testing and performing of other requested functions, the
23 department shall determine its actual costs incurred in handling
24 the affected herd and affected premises and conducting the testing
25 and notify the herd owner or custodian in writing. The herd owner

1 or custodian shall reimburse the department its actual costs within
2 fifteen days following the date of the notice. Any person failing
3 to reimburse the department shall be assessed a late fee of up
4 to twenty-five percent of the amount due for each thirty days of
5 nonpayment to reimburse the department for its costs of collecting
6 the amount due.

7 (3) Any costs and fees assessed and collected pursuant to
8 this section shall be remitted to the State Treasurer for credit to
9 the Anthrax Control Act Cash Fund.

10 (4) The Anthrax Control Act Cash Fund is created. The
11 fund shall consist of money appropriated by the Legislature and
12 gifts, grants, costs, or charges from any source, including
13 federal, state, public, and private sources. The fund shall be
14 used to carry out the Anthrax Control Act. Any money in the fund
15 available for investment shall be invested by the state investment
16 officer pursuant to the Nebraska Capital Expansion Act and the
17 Nebraska State Funds Investment Act.

18 Sec. 16. (1) To obtain compliance with the Anthrax
19 Control Act, the department may apply for a temporary restraining
20 order, a temporary or permanent injunction, or a mandatory
21 injunction against any person violating or threatening to violate
22 the act or any rules or regulations adopted and promulgated
23 thereunder. The district court of the county where the violation
24 is occurring or is about to occur has jurisdiction to grant such
25 relief upon good cause shown. Relief may be granted notwithstanding

1 the existence of any other remedy at law and shall be granted
2 without bond.

3 (2) The Attorney General or the county attorney of the
4 county where violations of the act or any rules or regulations
5 adopted and promulgated thereunder are occurring or about to occur
6 shall, when notified of such violation or threatened violation,
7 cause appropriate proceedings under subsection (1) of this section
8 to be instituted and pursued without delay and shall prosecute
9 violations under sections 8, 15, and 18 of this act without delay.

10 Sec. 17. The department is not liable for actual or
11 incidental costs incurred by any person due to departmental actions
12 in enforcing the Anthrax Control Act.

13 Sec. 18. Any person violating the Anthrax Control Act
14 or any rules or regulations adopted and promulgated thereunder for
15 which no penalty is otherwise provided is guilty of a Class I
16 misdemeanor.

17 Sec. 19. The following sections are outright repealed:
18 Sections 54-754, 54-755, 54-756, 54-757, 54-758, 54-759, 54-760,
19 54-761, 54-762, and 54-763, Reissue Revised Statutes of Nebraska.

20 Sec. 20. Since an emergency exists, this act takes effect
21 when passed and approved according to law.