

LEGISLATIVE BILL 600

Approved by the Governor April 27, 2017

Introduced by Agriculture Committee: Brasch, 16, Chairperson; Albrecht, 17; Blood, 3; Halloran, 33; Harr, 8; Lowe, 37.

A BILL FOR AN ACT relating to the Livestock Brand Act; to amend sections 54-179, 54-189, 54-191, 54-192, 54-195, 54-198, 54-1,100, 54-1,105, 54-1,115, and 54-1,119, Reissue Revised Statutes of Nebraska, and sections 54-1,110 and 54-1,111, Revised Statutes Cumulative Supplement, 2016; to redefine terms; to change Nebraska Brand Committee membership and employee provisions; to eliminate obsolete provisions; to change provisions relating to promotional materials and brand recording; to provide for a filing fee as prescribed; to provide for the lease of a recorded brand; to eliminate a branding requirement for sheep; to provide and change brand inspection exceptions for certain cattle; to change provisions relating to livestock transportation permits; to eliminate provisions relating to registered dairies; to harmonize provisions; to repeal the original sections; and to outright repeal sections 54-1,122.01 and 54-1,122.02, Revised Statutes Cumulative Supplement, 2016.

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

Section 1. Section 54-179, Reissue Revised Statutes of Nebraska, is amended to read:

54-179 Certificate of inspection means the official document issued and signed by a brand inspector authorizing (1) movement of livestock from a point of origin within the brand inspection area to a destination either inside or outside of the brand inspection area or outside of this state, (2) slaughter of livestock as specified on such certificate, or (3) the change of ownership of livestock as specified on such certificate. A certificate of inspection shall designate, as needed, the name of the shipper, consignor, or seller of the livestock, the purchaser or consignee of the livestock, the destination of the livestock, the method of transportation, the vehicle license number or carrier railroad car number when available, the miles driven by an inspector to perform inspection, the amount of inspection fees collected, the number and sex of the livestock to be moved or slaughtered, the brands, if any, on the livestock, and the brand owner. A certificate of inspection shall be construed and is intended to be documentary evidence of ownership on all livestock covered by such document.

Sec. 2. Section 54-189, Reissue Revised Statutes of Nebraska, is amended to read:

54-189 Satisfactory evidence of ownership consists of the brands, tattoos, or marks on the livestock; point of origin of livestock; the physical description of the livestock; the documentary evidence, such as bills of sale, brand clearance, certificates of inspection, breed registration certificates, animal health or testing certificates, genomic testing certificates, recorded brand certificates, purchase sheets, scale tickets, disclaimers of interest, affidavits, court orders, security agreements, powers of attorney, canceled checks, bills of lading, or tags; and such other facts, statements, or circumstances that taken in whole or in part cause an inspector to believe that proof of ownership is established.

Sec. 3. Section 54-191, Reissue Revised Statutes of Nebraska, is amended to read:

54-191 (1) The Nebraska Brand Committee is hereby created. Beginning August 28, 2007, the brand committee shall consist of five members appointed by the Governor. At least three appointed members shall be active cattlepersons and at least one appointed member shall be an active cattle feeder. The Secretary of State and the Director of Agriculture, or their designees, shall be nonvoting, ex officio members of the brand committee. The appointed members shall be owners of cattle within the brand inspection area, shall reside within the brand inspection area, shall be owners of Nebraska-recorded brands, and shall be persons whose principal business and occupation is the raising or feeding of cattle within the brand inspection area.

(2) The members of the brand committee shall elect a chairperson and vice-chairperson from among its appointed members during the first meeting held after September 1 each calendar year. A member may be reelected to serve as chairperson or vice-chairperson. ~~The Secretary of State shall remain a member of the brand committee in the capacity as chairperson of the brand committee until a chairperson is elected as provided in this section.~~

(3) The terms of the members shall be four-year, staggered terms, beginning on August 28 of the year of initial appointment or reappointment and concluding on August 27 of the year of expiration. At the expiration of the term of an appointed member, the Governor shall appoint a successor. The members of the brand committee serving on August 28, 2007, shall be considered appointed to serve the remainder of their terms. The Governor shall complete any additional appointment of members as necessary to fulfill the membership of the brand committee as prescribed by Laws 2007, LB 422, on or before August 28, 2007. If there is a vacancy on the brand committee, the Governor shall fill

such vacancy by appointing a member to serve during the unexpired term of the member whose office has become vacant.

(4) The action of a majority of the members shall be deemed the action of the brand committee. No appointed member shall hold any elective or appointive state or federal office while serving as a member of the brand committee. Each member and each brand committee employee who collects or who is the custodian of any funds shall be bonded or insured as required under section 11-201. The appointed members of the brand committee shall be paid their actual and necessary traveling expenses in attending meetings of the brand committee or in performing any other duties that are prescribed in the Livestock Brand Act or section 54-415, as provided for in sections 81-1174 to 81-1177.

The purpose of the Nebraska Brand Committee is to protect Nebraska brand and livestock owners from the theft of livestock through established brand recording, brand inspection, and livestock theft investigation.

Sec. 4. Section 54-192, Reissue Revised Statutes of Nebraska, is amended to read:

54-192 (1) The Nebraska Brand Committee shall employ such employees as may be necessary to properly carry out the Livestock Brand Act and section 54-415, fix the salaries of such employees, and make such expenditures as are necessary to properly carry out such act and section. Employees of the brand committee shall receive mileage computed at the rate provided in section 81-1176. The brand committee shall select and designate a location or locations where the brand committee shall keep and maintain an office and where records of the brand inspection and investigation proceedings, transactions, communications, brand registrations, and official acts shall be kept.

(2) The brand committee shall employ an executive a director who shall be the brand committee head for administrative purposes. The executive director shall also be chief investigator and chief brand inspector. Any person employed as executive director who at the time of hire does not possess a valid law enforcement certificate or diploma as required to exercise the authority of an investigator shall complete the requirements for such certificate or diploma within two years after the date of hire and shall assume the title of chief investigator upon obtaining such certificate or diploma. The executive director's duties during such period prior to obtaining such certificate or diploma shall not be within the authority granted under a commission as a deputy state sheriff as the executive officer of the brand committee, and the director shall also be the chief brand inspector, the chief investigator, and, for administrative purposes, the brand committee head. The director shall keep a record of all proceedings, transactions, communications, and official acts of the brand committee, shall be custodian of all records of the brand committee, and shall perform such other duties as may be required by the brand committee. The director shall call a meeting at the direction of the chairperson of the brand committee, or in his or her absence the vice-chairperson, or upon the written request of two or more members of the brand committee. The director shall have supervisory authority to direct and control all full-time and part-time employees of the brand committee. This authority allows the director to hire employees as are needed on an interim basis subject to approval or confirmation by the brand committee for regular employment. The director may place employees on probation and may discharge an employee. In the absence of the director, by reason of illness, vacation, or official business away from the committee's headquarters, the assistant director shall have similar authority as outlined in this section for the director.

(3) The brand committee shall employ a brand recorder who shall be responsible for the processing of all applications for new livestock brands, the transfer of ownership of existing livestock brands, the maintenance of accurate and permanent records relating to livestock brands, and such other duties as may be required by the brand committee.

(4) If any employee of the brand committee after having been disciplined, placed on probation, or having had his or her services terminated desires to have a hearing before the entire brand committee, such a hearing shall be granted as soon as is practicable and convenient for all persons concerned. The request for such a hearing shall be made in writing by the employee alleging the grievance and shall be directed to the director. After hearing all testimony surrounding the grievance of such employee, the brand committee, at its discretion, may approve, rescind, nullify, or amend all actions as previously taken by the director.

Sec. 5. Section 54-195, Reissue Revised Statutes of Nebraska, is amended to read:

54-195 (1) The Nebraska Brand Committee may authorize and direct its employees to disseminate or otherwise distribute various materials promoting the cattle industry.

(1) (2) The Nebraska Brand Committee brand committee may contract to collect assessments made by any public, quasi-public, or private agency or organization on the sale of cattle, beef, and beef products in Nebraska by producers and importers of such cattle, beef, and beef products. The brand committee may charge such agency or organization for collection of the assessments. The charge for collection of assessments shall be used to cover administrative costs of the brand committee, but such charge shall not exceed five percent of the assessments collected.

(2) The brand committee may authorize and direct its employees to disseminate or otherwise distribute various materials promoting the cattle industry.

Sec. 6. Section 54-198, Reissue Revised Statutes of Nebraska, is amended

to read:

54-198 (1) Any person having livestock may record a brand, which he or she has the exclusive right to use in this state, and it is unlawful to use any brand for branding any livestock unless the person using such brand has recorded that brand with the Nebraska Brand Committee. A brand is a mark consisting of symbols, characters, numerals, or a combination of such intended as a visual means of identification when applied to the hide of an animal or another method of livestock identification approved by rule and regulation of the brand committee, including an electronic device used for livestock identification. Only a hot iron or freeze brand or other method approved by the brand committee shall be used to brand a live animal.

(2) A hot iron brand or freeze brand may be used for in-herd identification purposes such as for year or production records. With respect to hot iron brands used for in-herd identification, the numerals 0, 1, 2, 3, 4, 5, 6, 7, 8, and 9 in singular or triangular position are reserved on both the right and left shoulder of all cattle, except that such shoulder location for a single-number hot iron brand may be used for year branding for in-herd identification purposes, and an alphabetical letter may be substituted for one of the numerals used in a triangular configuration for in-herd identification purposes. Hot iron brands used for in-herd identification shall be used in conjunction with the recorded hot iron brand and shall be on the same side of the animal as the recorded hot iron brand. Freeze branding for in-herd identification may be applied in any location and any configuration with any combination of numerals or alphabetical letters.

(3) It shall be unlawful to knowingly maintain a herd containing one or more animals which the possessor has branded, or caused to be branded, in violation of this section or any other provision of the Livestock Brand Act.

Sec. 7. Section 54-1,100, Reissue Revised Statutes of Nebraska, is amended to read:

54-1,100 (1) A recorded brand is the property of the person causing such record to be made and is subject to sale, assignment, transfer, devise, and descent as personal property. Any instrument of writing evidencing the sale, assignment, or transfer of a recorded brand shall be effective upon its recording with the Nebraska Brand Committee. No such instrument shall be accepted for recording if the brand committee has been duly notified of the existence of a lien or security interest against livestock owned or thereafter acquired by the owner of such brand by the holder of such lien or security interest. Written notification from the holder of such lien or security interest that the lien or security interest has been satisfied or consent from the holder of such lien or security interest shall be required in order for the brand committee to accept for recording an instrument selling, assigning, or transferring such recorded brand. Except as provided in subsection (2) of this section, the fee for recording such an instrument shall be established by the brand committee and shall not be more than forty dollars. Such instrument shall give notice to all third persons of the matter recorded in the instrument and shall be acknowledged by a notary public or any other officer qualified under law to administer oaths.

(2) The owner of a recorded brand may lease the brand to another person upon compliance with this subsection and subject to the approval of the brand committee. The lessee shall pay a filing fee established by the brand committee not to exceed one hundred dollars. The leased recorded brand may expire as agreed in the lease, but in no event shall such leased recorded brand exceed the original expiration date.

Sec. 8. Section 54-1,105, Reissue Revised Statutes of Nebraska, is amended to read:

54-1,105 (1) Cattle branded with a Nebraska-recorded visual brand shall be branded so that the recorded brand of the owner shows distinctly. Sheep may be marked distinctly with such mark or device as may be sufficient to distinguish the same readily should they become intermixed with other flocks of sheep.

(2) If the owners of recorded brands which conflict with or closely resemble each other maintain their herds in close proximity to each other, the Nebraska Brand Committee has the authority to decide, after hearing as to which at least ten days' written notice has been given, any dispute arising therefrom and to direct such change or changes in the position or positions where such recorded brand or brands are to be placed as will remove any confusion that might result from such conflict or close resemblance.

Sec. 9. Section 54-1,110, Revised Statutes Cumulative Supplement, 2016, is amended to read:

54-1,110 (1) Except as provided in subsections (2) and (3) of this section, no person shall move, in any manner, cattle from a point within the brand inspection area to a point outside the brand inspection area unless such cattle first have a brand inspection by the Nebraska Brand Committee and a certificate of inspection is issued. A copy of such certificate shall accompany the cattle and shall be retained by all persons moving such cattle as a permanent record.

(2) Cattle in a registered feedlot registered under sections 54-1,120 to 54-1,122 or a registered dairy registered under sections 54-1,122.01 and 54-1,122.02 are not subject to the brand inspection of subsection (1) of this section. Possession by the shipper or trucker of a shipping certificate from the registered feedlot or registered dairy constitutes compliance if the cattle being shipped are as represented on such shipping certificate.

(3) If the line designating the brand inspection area divides a farm or ranch or lies between noncontiguous parcels of land which are owned or operated

by the same cattle owner or owners, a permit may be issued, at the discretion of the Nebraska Brand Committee, to the owner or owners of cattle on such farm, ranch, or parcels of land to move the cattle in and out of the brand inspection area without inspection. If the line designating the brand inspection area lies between a farm or ranch and nearby veterinary medical facilities, a permit may be issued, at the discretion of the brand committee, to the owner or owners of cattle on such farm or ranch to move the cattle in and out of the brand inspection area without inspection to obtain care from the veterinary medical facilities. The brand committee shall issue initial permits only after receiving an application which includes an application fee established by the brand committee which shall not be more than fifteen dollars. The brand committee shall mail all current permitholders an annual renewal notice, for January 1 renewal, which requires a renewal fee established by the brand committee which shall not be more than fifteen dollars. If the permit conditions still exist, the cattle owner or owners may renew the permit.

(4) No person shall sell any cattle knowing that the cattle are to be moved, in any manner, in violation of this section. Proof of shipment or removal of the cattle from the brand inspection area by the purchaser or his or her agent is *prima facie* proof of knowledge that sale was had for removal from the brand inspection area.

(5) In cases of prosecution for violation of this section, venue may be established in the county of origin or any other county through which the cattle may pass in leaving the brand inspection area.

Sec. 10. Section 54-1,111, Revised Statutes Cumulative Supplement, 2016, is amended to read:

54-1,111 (1) Except as provided in subsection (2) of this section, no person shall sell or trade any cattle located within the brand inspection area, nor shall any person buy or purchase any such cattle unless the cattle have been inspected for brands and ownership and a certificate of inspection or brand clearance has been issued by the Nebraska Brand Committee. Any person selling such cattle shall present to the brand inspector a properly executed bill of sale, brand clearance, or other satisfactory evidence of ownership which shall be filed with the original certificate of inspection in the records of the brand committee. Any time a brand inspection is required by law, a brand investigator or brand inspector may transfer evidence of ownership of such cattle from a seller to a purchaser by issuing a certificate of inspection.

(2) A brand inspection is not required:

(a) For cattle of a registered feedlot registered under sections 54-1,120 to 54-1,122 shipped for direct slaughter or sale on any terminal market;

~~(b) For cattle of a registered dairy registered under sections 54-1,122.01 and 54-1,122.02 shipped for direct slaughter or sale on any terminal market;~~

~~(b) (e)~~ For cattle that are:

~~(i) Transferred transferred to a family corporation when all the shares of capital stock of the corporation are owned by the husband, wife, children, or grandchildren of the transferor and there is no consideration for the transfer other than the issuance of stock of the corporation to such family members; or~~

~~(ii) Transferred to a limited liability company in which membership is limited to the husband, wife, children, or grandchildren of the transferor and there is no consideration paid for the transfer other than a membership interest in the limited liability company;~~

~~(c) (d)~~ When the change of ownership of cattle is a change in form only and the surviving interests are in the exact proportion as the original interests of ownership. When there is a change of ownership described in subdivision ~~(2)(b) (2)(c)~~ or ~~(c) (d)~~ of this section, an affidavit, on a form prescribed by the Nebraska Brand Committee, signed by the transferor and stating the nature of the transfer and the number of cattle involved and the brands presently on the cattle, shall be filed with the brand committee;

~~(d) (e)~~ For cattle sold or purchased for educational or exhibition purposes or other recognized youth activities if a properly executed bill of sale is exchanged and presented upon demand. Educational or exhibition purpose means cattle sold or purchased for the purpose of being fed, bred, managed, or tended in a program designed to demonstrate or instruct in the use of various feed rations, the selection of individuals of certain physical conformation or breeds, the measurement and recording of rate of gain in weight or fat content of meat or milk produced, or the preparation of cattle for the purpose of exhibition or for judging as to quality and conformation;

~~(e) (f)~~ For calves under the age of thirty days sold or purchased at private treaty if a bill of sale is exchanged and presented upon demand; and

~~(f) (g)~~ For seedstock purebred cattle raised by the seller and individually registered with an organized breed association if a properly executed bill of sale is exchanged and presented upon demand.

Sec. 11. Section 54-1,115, Reissue Revised Statutes of Nebraska, is amended to read:

54-1,115 (1) ~~(1)(a)~~ Any person, other than the owner or the owner's employee, using a motor vehicle or trailer to transport livestock or carcasses over any land within the State of Nebraska brand inspection area not owned or rented by such person or who is so transporting such livestock upon a highway, public street, or thoroughfare within the State of Nebraska brand inspection area shall have in his or her possession a livestock transportation authority form permit, certificate of inspection, or shipping certificate from a registered feedlot or registered dairy, authorizing such movement as to each head of livestock transported by such vehicle.

~~(b) Any such person outside the brand inspection area transporting~~

~~livestock shall have in his or her possession a livestock transportation permit or other proof of ownership acceptable to the peace officer, the number of livestock, and the destination of the livestock, which permit shall be delivered to the public market or anyone to whom the livestock are being delivered.~~

(2) A livestock transportation authority form permit shall be in writing and shall state the name of the owner of the livestock, the owner's post office address, the place from which the livestock are being moved, including the name of the ranch, if any, the destination, the name and address of the carrier, the license number and make of motor vehicle to which consigned, together with the number of livestock and a description thereof including kind, sex, breed, color, and marks, if any, and in the case of livestock shipments originating within the brand inspection area, the brands, if there are any. The authority form permit shall be signed by the owner of the livestock or the owner's authorized agent. Livestock transportation permits shall be made in quadruplicate: One to be delivered to the motor carrier or motor carrier's agent, one to be retained by the owner of the livestock to be shipped, one to be delivered to the agent of the yard company receiving such livestock, and one to be delivered to the consignee at destination upon delivery of the consignment. Such permits shall be on forms approved by the Nebraska Brand Committee.

(3) Any peace officer, based upon probable cause to question the ownership of the livestock being transported, may stop a motor vehicle or motor vehicle and trailer and request exhibition of any authority form permit or certificate required by this section.

Sec. 12. Section 54-1,119, Reissue Revised Statutes of Nebraska, is amended to read:

54-1,119 (1) Any livestock market, whether within or outside of the state, or any meat packing plant which maintains brand inspection under the supervision of the Nebraska Brand Committee and under such rules and regulations as are specified by the United States Department of Agriculture, may be designated by the brand committee as an open market.

(2) When cattle originating from within the brand inspection area are consigned for sale to any commission company at any open market designated as such by the Nebraska Brand Committee where brand inspection is maintained, no brand inspection is required at the point of origin but is required at the point of destination unless the point of origin is a registered feedlot or registered dairy. If cattle are consigned to a commission company at an open market, the carrier transporting the cattle shall not allow the owner, shipper, or party in charge to change the billing to any point other than the commission company at the open market designated on the original billing, unless the carrier secures from the brand committee a certificate of inspection on the cattle so consigned. Any cattle originating in a registered feedlot or registered dairy consigned to a commission company at any terminal market destined for direct slaughter may be shipped in accordance with rules and regulations governing registered feedlots or registered dairies.

(3) Until the cattle are inspected for brands on the premises by the Nebraska Brand Committee, no person shall sell or cause to be sold or offer for sale (a) any cattle at a livestock auction market located within the brand inspection area or at a farm or ranch sale located within the brand inspection area or (b) any cattle originating within the brand inspection area consigned to an open market.

Sec. 13. Original sections 54-179, 54-189, 54-191, 54-192, 54-195, 54-198, 54-1,100, 54-1,105, 54-1,115, and 54-1,119, Reissue Revised Statutes of Nebraska, and sections 54-1,110 and 54-1,111, Revised Statutes Cumulative Supplement, 2016, are repealed.

Sec. 14. The following sections are outright repealed: Sections 54-1,122.01 and 54-1,122.02, Revised Statutes Cumulative Supplement, 2016.