

LEGISLATIVE BILL 213

Approved by the Governor March 30, 2000

Introduced by Schmitt, 41

AN ACT relating to livestock; to amend sections 54-170, 54-198, 54-199, 54-1,110, 54-1,111, 54-1,115, 54-1,119, 54-1,121, 54-1185, and 54-2014, Revised Statutes Supplement, 1999; to provide for registration of dairies; to change brand provisions; to provide a penalty; to harmonize provisions; to repeal the original sections; and to declare an emergency.

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

Section 1. (1) Any person who operates a dairy operation located within the brand inspection area may make application to the Nebraska Brand Committee for registration as a registered dairy. The application form shall be prescribed by the brand committee and shall be made available by the director of the brand committee for this purpose upon written request. If the applicant is an individual, the application shall include the applicant's social security number. After the brand committee has received a properly completed application, an agent of the brand committee shall within thirty days make an investigation to determine if the following requirements are satisfied:

(a) The operator's dairy must be permanently fenced; and

(b) The operator must identify each animal individually as directed by the Nebraska Brand Committee.

If the application is satisfactory, and upon payment of a registration fee by the applicant, the brand committee shall issue a registration number and registration certificate valid for one year unless rescinded for cause. If the registration is rescinded for cause, any registration fee shall be forfeited by the applicant. The fee for a registered dairy shall be not less than one hundred dollars nor more than six hundred fifty dollars for each such registered dairy having one thousand head or less capacity and an equal amount for each additional one thousand head capacity, or part thereof, of such registered dairy. The brand committee shall set the fee per one thousand head capacity so as to correspond with the inspection fee provided under section 54-1,108. The registration fee shall be paid on an annual basis.

(2) The brand committee may adopt and promulgate rules and regulations for the operation of registered dairies to assure that brand laws are complied with, that registered dairy shipping certificates are available, and that proper records are maintained. This section shall not be construed as prohibiting the operation of nonregistered dairies.

(3) A registered dairy is subject to inspection at any reasonable time at the discretion of the brand committee and its authorized agents, and the operator shall show cattle purchase records or certificates of inspection to cover all cattle in his or her dairy. Cattle having originated from any such registered dairy may from time to time, at the discretion of the committee, be subject to a spot-check inspection and audit at the destination to enable the brand committee to assure satisfactory compliance with the brand laws by the registered dairy operator.

(4) The operator of a registered dairy shall keep cattle inventory records. A form for such purpose shall be prescribed by the brand committee. The brand committee and its employees may from time to time make spot checks and audits of registered dairies and the records of cattle in such registered dairies.

(5) The brand committee may rescind or suspend the registration of any registered dairy operator who fails to cooperate or violates the laws or rules and regulations of the brand committee covering registered dairies.

Sec. 2. (1) Cattle sold or shipped from a registered dairy, for purposes other than direct slaughter or sale on any terminal market, are subject to the brand inspection under sections 54-1,110 to 54-1,119 and the seller or shipper shall bear the cost of such inspection at the regular fee.

(2) Any other cattle shipped from a registered dairy are not subject to brand inspection at origin or destination, but the shipper must have a shipping certificate from the registered dairy. The shipping certificate form shall be prescribed by the Nebraska Brand Committee and shall show the registered dairy operator's name and registration number, date shipped, destination, agency receiving the cattle, number of head in the shipment, and sex of the cattle. The shipping certificate shall be completed in triplicate

by the registered dairy operator at the time of shipment. One copy thereof shall be delivered to the brand inspector at the market along with shipment, if applicable, one copy shall be sent to the brand committee by the tenth day of the following month, and one copy shall be retained by the registered dairy operator. If a shipping certificate does not accompany a shipment of cattle from a registered dairy to any destination where brand inspection is maintained by the brand committee, all such cattle are subject to a brand inspection and inspection fees shall be charged for the service.

(3) Any cattle originating in a state that has a brand inspection agency and which are accompanied by a certificate of inspection or brand clearance issued by such agency may be moved directly from the point of origin into a registered dairy. Any cattle not accompanied by such a certificate of inspection or brand clearance or by satisfactory evidence of ownership from states or portions of states not having brand inspection shall be inspected for brands by the Nebraska Brand Committee within a reasonable time after arrival at a registered dairy, and the inspection fee provided under section 54-1,108 shall be collected by the brand inspector at the time the inspection is performed.

Sec. 3. Section 54-170, Revised Statutes Supplement, 1999, is amended to read:

54-170. Sections 54-170 to 54-1,127 and sections 1 and 2 of this act shall be known and may be cited as the Livestock Brand Act.

Sec. 4. Section 54-198, Revised Statutes Supplement, 1999, 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. Only a hot iron or freeze brand shall be used to brand a live animal.

(2) After January 17, 1962, only a hot iron brand shall be used to brand a live animal. A freeze brand or 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. The Hot iron brands used for in-herd identification brand shall be used in conjunction with the recorded brand and shall be on the same side of the animal as the recorded 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. 5. Section 54-199, Revised Statutes Supplement, 1999, is amended to read:

54-199. (1) To record a brand, a person shall forward to the Nebraska Brand Committee a facsimile of the brand desired to be recorded, a written application, and a recording fee of twenty-five dollars for the first location on a side of the animal and fifteen dollars for each additional location requested on that side of the animal in the same ownership.

(2) Upon receipt of such facsimile, application, and fee, the brand committee shall determine compliance with the following requirements:

(a) The brand shall be an identification mark that is applied to the hide of a live animal by a hot iron branding or by either hot iron branding or freeze branding. The brand shall be on either side of the animal in any one of three locations, the shoulder, ribs, or hip, except that after September 6, 1991, no new brand shall be recorded for the ribs of the animal on either side. All brands recorded for the ribs on such date shall remain valid and renewable and shall be transferable until such recorded brand expires;

(b) The brand is not recorded under the name of any other person and does not conflict with or closely resemble a prior recorded brand;

(c) The brand application specifies the left or right side of the animal and the location on that side of the animal where the brand is to be placed;

(d) The brand is not recorded as a trade name nor as the name of any profit or nonprofit corporation, unless such trade name or corporation is of record, in current good standing, with the Secretary of State; and

(e) The brand is, in the judgment of the brand committee, legible, adequate, and of such a nature that the brand when applied can be properly

read and identified by employees of the brand committee.

(3) All brands shall be recorded as a hot iron brand only unless a co-recording as a freeze brand is requested by the applicant. The brand committee shall approve co-recording a brand as a freeze brand unless the brand would not be distinguishable from in-herd identification applied by freeze branding.

(4) If the facsimile or the application does not comply with any of the requirements of this section, the brand committee shall not record such brand as requested but shall return the recording fee to the forwarding person. The power of examination and rejection is vested in the brand committee, and if the brand committee determines that the application for a recorded brand falls within the category set out in subdivision (2)(e) of this section, it shall decide whether or not a recorded brand shall be issued. The brand committee shall make such examination as promptly as possible. If the brand is recorded, the ownership vests from the date of filing of the application.

Sec. 6. Section 54-1,110, Revised Statutes Supplement, 1999, 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 ~~pursuant to~~ under sections 54-1,120 to 54-1,122 or a registered dairy registered under sections 1 and 2 of this act 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 of ten dollars. The brand committee shall mail all current permit holders an annual renewal notice, for January 1 renewal, which requires a renewal fee of ten 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 buyer 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. 7. Section 54-1,111, Revised Statutes Supplement, 1999, 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 buyer 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 1 and 2 of this act shipped for direct slaughter or sale on any terminal market;

(c) ~~(b)~~ For cattle that are 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;

(d) ~~(e)~~ 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)~~ ~~or~~ ~~(e)~~ (2)(c) or (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;

(e) ~~(d)~~ 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;

(f) ~~(e)~~ 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

(g) ~~(f)~~ For 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. 8. Section 54-1,115, Revised Statutes Supplement, 1999, is amended to read:

54-1,115. (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 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 brand inspection area shall have in his or her possession a livestock transportation 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 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 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 permit or certificate required by this section.

Sec. 9. Section 54-1,119, Revised Statutes Supplement, 1999, 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. 10. Section 54-1,121, Revised Statutes Supplement, 1999, is amended to read:

54-1,121. Cattle sold or shipped from a registered feedlot, for purposes other than direct slaughter or sale on any terminal market, are subject to the brand inspection under sections 54-1,110 ~~and~~ to 54-1,119, and the seller or shipper shall bear the cost of such inspection at the regular fee.

Any other cattle shipped from a registered feedlot are not subject to brand inspection at origin or destination, but the shipper must have a shipping certificate from the registered feedlot. The shipping certificate form shall be prescribed by the Nebraska Brand Committee and shall show the registered feedlot operator's name, and registration number, date shipped, destination, agency receiving the cattle, number of head in the shipment, and sex of the cattle. The shipping certificate shall be completed in triplicate by the registered feedlot operator at the time of shipment. One ~~and one~~ copy thereof shall be delivered to the brand inspector at the market along with shipment, if applicable, one copy shall be sent to the brand committee by the tenth day of the following month, and one copy shall be retained by the registered feedlot operator. If a shipping certificate does not accompany a shipment of cattle from a registered feedlot to any destination where brand inspection is maintained by the brand committee, all such cattle shall be subject to a brand inspection and inspection fees shall be charged for the service.

Sec. 11. Section 54-1185, Revised Statutes Supplement, 1999, is amended to read:

54-1185. Inspection provided for in sections 54-1183 to 54-1185 shall be conducted in the manner established by the Livestock Brand Act. The owner or operator making such election ~~shall~~ may be required to guarantee to the Nebraska Brand Committee that inspection fees derived from such livestock auction market or packing plant will be sufficient, in each ~~six-month~~ twelve-month period, to pay the per diem and mileage of the inspectors required and that he or she will reimburse the committee for any deficit incurred in any such ~~six-month~~ twelve-month period. Such guarantee shall be secured by a corporate surety bond, to be approved by the Secretary of State, in a penal sum to be established by the Nebraska Brand Committee.

Sec. 12. Section 54-2014, Revised Statutes Supplement, 1999, is amended to read:

54-2014. Inspection provided for in this section and sections 54-2012 and 54-2013 shall be conducted in the manner established by the Livestock Brand Act. The livestock market operator making such election ~~shall~~ may be required to guarantee to the Nebraska Brand Committee that inspection fees derived from such livestock market shall be sufficient, in each ~~six-month~~ twelve-month period, to pay the per diem and mileage of the inspectors required and that he or she will reimburse the committee for any deficit incurred in any such ~~six-month~~ twelve-month period. Such guarantee shall be secured by a corporate surety bond, to be approved by the Secretary of State, in a penal sum to be established by the Nebraska Brand Committee.

Sec. 13. Original sections 54-170, 54-198, 54-199, 54-1,110, 54-1,111, 54-1,115, 54-1,119, 54-1,121, 54-1185, and 54-2014, Revised Statutes Supplement, 1999, are repealed.

Sec. 14. Since an emergency exists, this act takes effect when

LB 213

LB 213

passed and approved according to law.