

## LEGISLATIVE BILL 778

Approved by the Governor May 5, 1999

Introduced by Dierks, 40

AN ACT relating to livestock brands; to amend sections 54-157, 54-158, 54-415, 54-1157 to 54-1160, 54-1163, 54-1165, 54-1168, 54-1169, 54-1171 to 54-1174, 54-1176, 54-1182, 54-1183, 54-1185, 54-1186, 54-2001, 54-2012, and 54-2014, Reissue Revised Statutes of Nebraska; to adopt the Livestock Brand Act; to rename the Nebraska Livestock Auction Market Development Act; to transfer certain hog cholera sections; to repeal provisions relating to livestock brands; to harmonize provisions; to provide a duty for the Revisor of Statutes; to repeal the original sections; and to outright repeal sections 54-101 to 54-110, 54-112, 54-114 to 54-119, 54-121, 54-125, 54-126, 54-129 to 54-133.01, 54-133.03, 54-134, 54-135 to 54-137.01, 54-138, 54-140, 54-141, 54-142 to 54-144, 54-145.01 to 54-145.06, 54-147 to 54-148, 54-150, 54-152 to 54-153.03, 54-155, 54-156, and 54-159 to 54-169, Reissue Revised Statutes of Nebraska.

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

Section 1. Sections 1 to 58 of this act shall be known and may be cited as the Livestock Brand Act.

Sec. 2. For purposes of the Livestock Brand Act, the definitions found in sections 3 to 21 of this act shall be used.

Sec. 3. Bill of sale means a formal instrument for the conveyance or transfer of title to livestock or other goods and chattels. The bill of sale shall state the buyer's name and address, the date of transfer, the guarantee of title, the number of livestock transferred, the sex of such livestock, the brand or brands, the location of the brand or brands or a statement to the effect that the animal is unbranded, and the name and address of the seller. The signature of the seller shall be attested by at least one witness or acknowledged by a notary public or by some other officer authorized by state law to take acknowledgments. A properly executed bill of sale means a bill of sale that is provided by the seller and received by the buyer.

Sec. 4. Brand clearance means the documentary evidence of ownership that is issued and signed by a brand inspector and given to persons who have legally purchased cattle at a livestock auction or sale where a brand inspection service is provided. The brand clearance shall give the name and address of sale or auction where issued, the name of purchaser, the number and sex of cattle, the brands, if any, and the location on the cattle.

Sec. 5. Brand inspection agency means an agency of a state, or a duly organized livestock association of a state, authorized by state law and registered with the Packers and Stockyards Division of the United States Department of Agriculture to charge and collect, at designated stockyards, packing plants, sales barns, or farm and ranch loading points, a reasonable and nondiscriminatory fee for the inspection of brands, marks, and other identifying characteristics of livestock originating in or shipped from such state for the purpose of determining the ownership of such livestock.

Sec. 6. Brand inspection area means that portion of the State of Nebraska designated in section 40 of this act, where brand inspection is mandatory.

Sec. 7. Brand inspector means a person employed by the Nebraska Brand Committee, or some other brand inspection agency, inside or outside of the State of Nebraska, for the purpose of identifying brands, marks, or other identifying characteristics of livestock to determine the existence of such brands, marks, or identifying characteristics and from such determinations attempt to establish correct and true ownership of such livestock, and generally carry out the provisions and enforcement of all laws pertaining to brands, brand inspection, and associated livestock laws.

Sec. 8. Carcass means the body, or part thereof but not less than one-fourth of a body, of any dead or slaughtered livestock.

Sec. 9. Cattle means bovine cattle only and does not relate to or include any other kind of animal.

Sec. 10. 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 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. 11. Estray means any livestock found running at large upon public or private lands, either fenced or unfenced, whose owner is unknown in the area where found, any such livestock which is branded with a brand which is not on record in the office of the Nebraska Brand Committee, or any livestock for which ownership has not been established as provided in section 49 of this act.

Sec. 12. Freeze brand means a mark or brand that is created on a live animal in a depigmentation technique, whereby the pigment-producing cells in the skin of an animal are destroyed by the application of intense cold to the skin area.

Sec. 13. Investigator means an employee of the Nebraska Brand Committee who is also a deputy state sheriff and has the duty, responsibility, and authority to enforce all state statutes pertaining to brands, brand inspection, and associated livestock laws. An investigator is also responsible for the investigation of all problems associated with brands, brand inspection, and associated livestock enforcement problems.

Sec. 14. Livestock means any domestic cattle, horses, mules, donkeys, sheep, or swine.

Sec. 15. A mark means a physical identification that includes, but is not limited to, visible characteristics on an animal such as a natural, accidental, or manmade blemish that sets apart a particular animal from all others. Such marks include, but are not limited to, hair coloration, scars, brands, earmarks, or tattoos.

Sec. 16. Market agency means any person engaged in the business of (1) buying or selling in commerce livestock on a commission basis or (2) furnishing stockyard services, meaning services or facilities furnished at a stockyard in connection with the receiving, buying, or selling on a commission basis or otherwise, marketing, feeding, watering, holding, delivering, shipping, weighing, or handling, in commerce, of livestock.

Sec. 17. Open market means a sales barn, market agency, stockyard, packing plant, or terminal market located outside of the brand inspection area or located outside of this state where brand inspection is maintained either by employees of the Nebraska Brand Committee or by some other state under a reciprocal agreement as allowed under the federal Packers and Stockyards Act, 1921, 7 U.S.C. 181 et seq., as amended.

Sec. 18. Person means any individual, partnership, limited liability company, corporation, association, firm, or agents or servants of an individual or business entity.

Sec. 19. Registered feedlot means a feedlot registered under section 51 of this act.

Sec. 20. 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, 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. 21. Tattoo means the conspicuous curvilinear marks or patterns brought about by pricking a pigment coloration into the skin of an animal by using a needle or similar device or the act of marking, coloring, or pricking into the skin of an animal coloring matter or ink which forms an indelible mark or figure.

Sec. 22. The Nebraska Brand Committee is hereby created. The brand committee shall consist of the Secretary of State, who shall be chairperson, and four members appointed by the Governor. Three appointed members shall be active cattlemen and one appointed member shall be an active cattle feeder. 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. The terms of the members shall be four-year, staggered terms. At the expiration of the term of an appointed member, the Governor shall appoint a successor. Members serving on the effective date of this act shall be considered appointed to serve the remainder of the term to which they were appointed. 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. 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 appointed member and each brand committee employee who collects or who is the custodian of any funds shall be covered by the blanket bond of the State of Nebraska 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. 23. (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 a director 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 Secretary of State 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 department'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. 24. The Nebraska Brand Committee shall periodically have published in book form a list of all brands recorded with the brand committee at the time of such publication. Such brand book may be supplemented from time to time. The publication shall contain a facsimile of all recorded brands, together with the owner's name and post office address. The brand book shall be arranged in convenient form for reference. The brand committee shall send, without any charge, the number of copies required by section 51-413 to the Nebraska Publications Clearinghouse and shall send one copy of the brand book and supplements thereto to each inspector of record and to the county sheriff of each county in the State of Nebraska, which shall be kept as a matter of public record. The brand books and supplements may be sold to the

general public for a price equal to or less than the actual cost of printing.

Sec. 25. As chairperson of the Nebraska Brand Committee, the Secretary of State, or his or her designee, shall have the authority to sign all certificates and other documents that may by law require certification by signature. Such documents shall include, but not be limited to, new brand certificates, brand transfer certificates, duplicate brand certificates, and brand renewal receipts. A facsimile of the brand committee seal and the signature of the brand recorder shall also be placed on all brand certificates.

Sec. 26. (1) The Nebraska Brand Committee may authorize and direct its employees to disseminate or otherwise distribute various materials promoting the cattle industry.

(2) The 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.

Sec. 27. The Nebraska Brand Committee may adopt and promulgate rules and regulations to carry out the Livestock Brand Act and section 54-415.

Sec. 28. The Nebraska Brand Inspection and Theft Prevention Fund is created. Fees and money collected pursuant to the Livestock Brand Act not otherwise provided for in the act shall be remitted to the State Treasurer for credit to the fund. The fund shall be used by the Nebraska Brand Committee in the administration and enforcement of the act and section 54-415. All expenses and salaries provided for under such act or incurred by reason thereof shall be paid out of the fund. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Sec. 29. (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.

(2) After January 1, 1962, only a hot iron brand shall be used to brand a live animal. A freeze brand or hot iron 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 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.

Sec. 30. (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 on either side 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) 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. 31. 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. Instruments of writing evidencing the sale, assignment, or transfer of a recorded brand shall be recorded by the Nebraska Brand Committee, and the fee for recording such an instrument is twenty-five dollars. Such instruments shall give notice to all third persons of the matter recorded in the instruments and shall be acknowledged by a notary public or any other officer qualified under law to administer oaths.

Sec. 32. The owner of a recorded brand is entitled to one certified copy of the record of such brand from the Nebraska Brand Committee without charge. Additional certified copies of the record may be obtained by anyone upon the payment of one dollar for each copy.

Copies of any other document of the brand committee may be requested, and a fee of one dollar shall be collected for each page copied. Only personnel authorized by the brand committee shall make copies and collect such fees. The party requesting the copies is responsible for payment of the fee and shall reimburse the brand committee for the research time necessary to furnish the requested documents at a rate of not less than twelve nor more than twenty dollars per hour of research time. The rate shall be reviewed and set annually by the brand committee.

Sec. 33. (1) A recorded brand may be applied by its owner until its expiration date.

(2) On and after January 1, 1994, the expiration date of a recorded brand is the last day of the calendar quarter of the renewal year as designated by the Nebraska Brand Committee in the records of the brand committee.

(3) The brand committee shall notify every owner of a recorded brand of its expiration date at least sixty days prior to the expiration date, and the owner of the recorded brand shall pay a renewal fee of twenty-five dollars and furnish such other information as may be required by the brand committee. The renewal fee is due and payable on or before the expiration date and renews a recorded brand for a period of four years regardless of the number of locations on one side of an animal on which the brand is recorded. If any owner fails, refuses, or neglects to pay the renewal fee by the expiration date, the brand shall expire and be forfeited.

(4) The brand committee has the authority to hold an expired brand for one year following the date of expiration. An expired brand may be reinstated by the same owner during such one-year period upon return of a brand application form and payment of a recording fee of twenty-five dollars for the first location on a side of an animal and fifteen dollars for each additional location requested on that side of an animal and a penalty of five dollars for each month or part of a month which has passed since the date of expiration. A properly reinstated brand may be transferred to another person during such one-year period upon completion of a transfer form, with a notarized bill of sale signed by the prior owner attached to such transfer form.

Sec. 34. (1) Cattle brands consisting of alphabetical letters A through Z, and numbers 1, 2, 3, 4, 5, 6, 7, 8, and 9 on the left or right jaw are reserved for assignment by the brand recorder, as designated by the Nebraska Brand Committee. The brand recorder shall not assign such brands to any person in the State of Nebraska unless authorized by the brand committee, and it shall be unlawful for any person to use such brands except as provided in subsection (2) of this section.

(2) Every person when spaying heifers, upon request of the owner thereof, shall brand such heifers with the alphabetical letter O on the left jaw and 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 brand committee to state and federal animal disease control agencies to require the use of the letters F, V, B, S, and T and an open-end spade on either the right or left jaw of cattle in a manner consistent with animal disease control laws.

Sec. 35. There is a recorded brand consisting of the alphabetical letter N on the entire right and left sides which is assigned to the Nebraska Brand Committee to be used only by authorized personnel of the brand committee to permanently identify livestock which are suspected of having been stolen and may be used as evidence in any court proceeding. It shall in no way signify that the brand committee (1) is the owner of livestock so branded or (2) claims ownership in any livestock carrying such brand. It shall only be construed and intended that livestock so branded are evidence or portions of evidence seized relative to an alleged theft of livestock.

Sec. 36. (1) Cattle branded with a Nebraska-recorded 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 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. 37. A person who brings livestock into any county of this state for grazing purposes which are already branded shall provide the Nebraska Brand Committee with a statement of the brands of such livestock. Failure to comply with this section renders the violating person liable for all damages resulting from such failure.

Sec. 38. A recorded brand is prima facie evidence of ownership of livestock and is admissible into evidence in any court in this state if the brand meets the requirements of and is recorded as provided in section 30 of this act. Other documentary evidence such as bills of sale or certificates of brand clearance transferring title from an owner to another party may also be introduced as evidence of livestock ownership in any court in this state. The recording of instruments of writing evidencing the sale, assignment, or transfer of a recorded brand gives notice to all third persons of the matter recorded, and certified copies are admissible in evidence without further foundation. In all suits at law or in equity, in any criminal proceedings, or when determining the ownership of estrays wherein the title to livestock is an issue, the certified copy of the record of a recorded brand or instrument of writing evidencing sale, assignment, or transfer of a recorded brand is prima facie evidence of the ownership of such livestock by the person possessing such livestock.

Sec. 39. (1) All brand inspections provided for in the Livestock Brand Act or section 54-415 shall be from sunrise to sundown or during such other hours and under such conditions as the Nebraska Brand Committee determines.

(2) A uniform fee, fixed by the Nebraska Brand Committee, of not more than sixty-five cents per head shall be charged for all cattle inspected in accordance with the Livestock Brand Act or section 54-415 or inspected within the brand inspection area by court order or at the request of any bank, credit agency, or lending institution with a legal or financial interest in such cattle. The inspection fee for court-ordered inspections shall be paid from the proceeds of the sale of such cattle if ordered by the court or by either party as the court directs. For other inspections, the person requesting the inspection of such cattle is responsible for the inspection fee. If stray cattle are identified as a result of the inspection, such cattle shall be processed in the manner provided by section 54-415.

(3) Any person who has reason to believe that cattle were shipped erroneously due to an inspection error during a brand inspection may request a reinspection. The person making such request shall be responsible for the expenses incurred as a result of the reinspection unless the results of the reinspection substantiate the claim of inspection error, in which case the brand committee shall be responsible for the reinspection expenses.

Sec. 40. The brand inspection area of Nebraska consists of the following land area of counties and parts thereof: Arthur, Banner, Blaine, Box Butte, Boyd, Brown, Buffalo, Chase, Cherry, Cheyenne, Custer, Dawes, Dawson, Deuel, Dundy, Franklin, Frontier, part of the south half of section 1, township 3 north, range 21, on railroad right-of-way in the west part of Oxford Town called Burlington addition in Furnas, Garden, Garfield, Gosper, Grant, Greeley, all of lots 1, 7, and 8 in block 48 in original town of Grand Island, and all of the southeast quarter lying south of the Union Pacific Railroad Company's right-of-way in section 24, township 11 north, range 10, in Hall, Harlan, Hayes, Hitchcock, Holt, Hooker, Howard, Kearney, Keith, Keya

Paha, Kimball, all of Knox except Eastern, Dolphin, Dowling, Columbia, Morton, Peoria, Addison, Herrick, Frankfort, and Lincoln townships, Lincoln, Logan, Loup, McPherson, Morrill, Perkins, Phelps, Red Willow, Rock, Scotts Bluff, Sheridan, Sherman, Sioux, Thomas, Valley, the existing livestock auction markets in Blue Hill, all of lots 1 to 6, and lots 7 and 8, except twenty-two feet of the east side of lot 8, all in block 6, original town of Blue Hill, and Red Cloud, part of lot A, Roats subdivision to Red Cloud, lots 1 and 2 and the south one-half of block 32 in original town of Red Cloud, and all of annex lot 21, Red Cloud, in Webster, and all of Wheeler.

Sec. 41. (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 sections 51 to 53 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 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. 42. (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;

(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;

(c) 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 (c) 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) 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) 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) 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. 43. (1) Any person located within the brand inspection area who slaughters or has cattle slaughtered for sale or distribution shall keep, in a book for that purpose, a true and faithful record of all cattle purchased and slaughtered. Such record shall also contain a description of the marks, brands, age, weight, and color of all cattle slaughtered. Such record shall contain the date when the cattle were slaughtered and a notation which sets forth by whom the cattle were raised or from whom purchased.

(2) All persons who purchase hides shall keep a record of all hides of cattle purchased by them, which record shall state the name or names of the person or persons from whom purchased, their place of residence, the date of purchase, and all marks and brands on the hide, and the record shall at all times be open for inspection by any peace officer.

Sec. 44. (1)(a) Inside of the brand inspection area, no person shall sell or trade or offer for sale or trade the carcass of a beef or veal, or any portion thereof, including the hide of such carcass, unless a certificate of inspection is secured from a brand inspector. Such person shall exhibit the certificate of inspection upon the demand of any person.

(b) Outside of the brand inspection area, no person shall sell or offer for sale, except as a butcher bonded under section 45 of this act, the carcass of a beef or veal, or any portion thereof, without first exhibiting the intact hide of the same and exposing the brand upon the hide, if any, to the purchaser. A person selling or offering for sale any such carcass of beef or veal shall preserve the hide of the same for a period of fifteen days unless a certificate of inspection is secured from a brand inspector, and such person shall exhibit the certificate of inspection upon the demand of any person.

(2) No person shall kill for his, her, or its own use and consumption any cattle for beef or veal without preserving the hide of such animal intact with a complete unskinned tail attached thereto for a period of not less than fifteen days unless a certificate of inspection is secured from a brand inspector, and such hide shall be presented for inspection upon demand of any person.

Sec. 45. (1) Except as provided in subsections (2) and (3) of this section, no butcher, packer, or vendor engaged in the slaughter of cattle within the brand inspection area shall kill or otherwise dispose of any cattle until a brand inspection is performed by the Nebraska Brand Committee on the premises where such slaughter is to take place and until a certificate of inspection from the brand committee is filed and is made a part of such operator's permanent records. All such certificates of inspection shall, upon demand, be displayed to any peace officer or to the brand committee at any time.

(2) If cattle requiring inspection under this section are to be slaughtered and are purchased by such butcher, packer, or vendor at a regularly brand-inspected sales barn and are destined for direct slaughter upon reaching their destination, the brand inspector at such sales barn shall be advised that such cattle are destined for direct slaughter. The brand inspector shall then issue a certificate of inspection for the cattle, such certificate to indicate that the cattle are to go to direct slaughter and that the cattle are not to be retained by such butcher, packer, or vendor for longer than ninety-six hours prior to slaughter. Cattle inspected at the point of origin by a brand inspector shall not require an additional brand inspection upon reaching a destination within the state if the certificate of inspection designates that the cattle are to go directly for slaughter and not to be retained by such butcher, packer, or vendor longer than ninety-six hours prior to slaughter.

(3) If cattle required to be inspected under this section are offered for slaughter and satisfactory evidence of ownership has not been provided, the butcher, packer, or vendor may, with the approval of the brand inspector, slaughter the cattle and hold the meat until such time as

satisfactory evidence of ownership is provided to the brand committee. The brand inspector shall provide the butcher, packer, or vendor with an official notice advising the operator not to release the meat until authorized by the brand committee. The brand committee may provide for a cash bond to be posted with the director of the brand committee so that the meat may be released prior to the establishment of satisfactory evidence of ownership. The amount of the bond shall be set at the approximate value of the cattle. When satisfactory evidence of ownership has been provided by the person offering the cattle for slaughter, the director shall authorize the release of the meat or the return of the bond.

Sec. 46. (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, 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. 47. All livestock sold or otherwise disposed of shall be accompanied by a properly executed bill of sale in writing or, for cattle, a certificate of inspection. All owners of or persons possessing livestock have a duty to exhibit, upon request of any person, the bill of sale or other satisfactory evidence of ownership of the livestock.

Sec. 48. No consignment of livestock within, entering into, or passing through the brand inspection area, after having been inspected by a brand inspector, shall be permitted to intermingle with any other livestock located within the brand inspection area. If, at any time after brand inspection has been performed or a certificate of inspection has been issued on any shipment of livestock, the livestock become intermingled with other livestock located within the brand inspection area, the original brand inspection is void and before further movement of the livestock out of the brand inspection area may be made, reinspection for identification of brands is required. A brand inspector may require reinspection if he or she has reason to believe a consignment of livestock has become intermingled.

Sec. 49. If any livestock inspected under the Livestock Brand Act or section 54-415 is unbranded or bears a brand or brands in addition to, or other than, the recorded brand or brands of the shipper or seller, then the shipper or seller may be required to establish his or her ownership of such livestock by exhibiting to the Nebraska Brand Committee a bill of sale to such livestock or by other satisfactory evidence of ownership. If ownership of the livestock is not established, the livestock may be sold, and the selling agent who sells such livestock shall hold the proceeds of the sale. If any shipper or seller who has offered such livestock for sale refuses to accept the bids offered, ownership must be established, or a cash bond posted with the selling agent in an amount equal to the approximate value of the livestock and payable to the brand committee, before such livestock may be removed from the premises. When ownership has been established the cash bond shall be returned

to the person who or which posted it.

The shipper or seller of the livestock is required to establish ownership of such livestock within sixty days after its sale. If such shipper or seller establishes ownership of such livestock, the Nebraska Brand Committee shall order the selling agent of such livestock to pay the proceeds of sale to the shipper or seller. If such shipper or seller fails to establish ownership within the sixty days, such livestock shall be considered an estray and the Nebraska Brand Committee shall order the selling agent to pay the proceeds of sale over to the brand committee. All funds that the brand committee receives from the sale of any estray shall be placed in a separate custodial fund known as the estray fund. The brand committee shall determine the ownership of estrays that originate within the brand inspection area. Such funds shall be disposed of in the manner provided in section 54-415.

Sec. 50. (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. 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 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.

(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. 51. (1) Any person who operates a cattle feeding operation located within the brand inspection area may make application to the Nebraska Brand Committee for registration as a registered feedlot. 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 feedlot must be permanently fenced; and

(b) The operator must commonly practice feeding cattle to finish for slaughter.

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 fees for registered feedlots shall be not less than one hundred dollars nor more than six hundred fifty dollars for each such registered feedlot having one thousand head or less capacity and an equal amount for each additional one thousand head capacity, or part thereof, of such registered feedlot. The brand committee shall set the fee per one thousand head capacity so as to correspond with the inspection fee provided under section 39 of this act. 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 feedlots to assure that brand laws are complied with, that registered feedlot shipping certificates are available, and that proper records are maintained. Violation of sections 51 to 53 of this act subjects the operator to revocation or suspension of the feedlot registration issued. Sections 51 to 53 of this act shall not be construed as prohibiting the operation of nonregistered feedlots.

(3) Registered feedlots are 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 feedlot. Cattle having originated from such registered feedlots may from time to time, at the discretion of the committee, be subject to a spot-check inspection and audit at destination to enable the brand committee to assure satisfactory compliance with the brand laws by the registered feedlot operator.

(4) The operator of a registered feedlot 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 the registered feedlots and the records of cattle on feed in such feedlots.

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

Sec. 52. 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 41 and 50 of this act, 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, registration number, date shipped, destination, agency receiving the cattle, number of head in the shipment, and sex. The shipping certificate shall be completed in triplicate by the registered feedlot operator at the time of shipment, 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. 53. 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 feedlot. 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 feedlot, and the inspection fee provided under section 39 of this act shall be collected by the brand inspector at the time the inspection is performed.

Sec. 54. No person, other than the owner of the livestock, shall sell or offer for sale or trade or otherwise dispose of any livestock unless the person so offering has the bill of sale, a power of attorney from the owner of such livestock authorizing such sale, or other satisfactory evidence of ownership. A violation of this section is a Class III felony.

Sec. 55. If any person willfully and knowingly brands, marks, or causes to be branded or marked, livestock owned by another with the intent to deprive such owner of the livestock or willfully and knowingly effaces, defaces, or obliterates any mark upon any livestock owned by another with the intent to deprive such owner of the livestock, such person is guilty of a Class III felony.

Sec. 56. (1) Any person who offers as evidence of ownership for any livestock sold, traded, or otherwise disposed of as provided in the Livestock Brand Act or section 54-415, any forged, altered, or otherwise falsely prepared document or form, knowing the same to be forged, altered, or otherwise falsely prepared, is guilty of the Class IV felony of criminal possession of a forged instrument as defined in section 28-604.

(2) Any person who forges, alters, or otherwise changes in any manner any of the forms or documents which are satisfactory evidence of ownership or any other form or document required by or provided for in the Livestock Brand Act or section 54-415, is guilty of second degree forgery as defined in section 28-603, and shall be punished in accordance with such section.

(3) Any person who knowingly misrepresents or misuses any certificate of inspection or other satisfactory evidence of ownership is guilty of a Class II misdemeanor.

Sec. 57. Any person who violates any provision of the Livestock Brand Act is guilty of a Class II misdemeanor unless another penalty is

specifically provided for such violation.

Sec. 58. Whenever any person is arrested for a violation of the Livestock Brand Act or section 54-415 punishable as a misdemeanor, the arresting peace officer shall, except as otherwise provided in this section, take the name and address of such person and the license number of his or her motor vehicle. The peace officer shall issue a summons or otherwise notify him or her in writing to appear at a time and place to be specified in such summons or notice. Such time shall be at least five days after such arrest, unless the person arrested demands an earlier hearing. Such person, if he or she so desires, has a right to an immediate hearing or a hearing within twenty-four hours at a convenient hour, such hearing to be before a magistrate within the county where such offense was committed. The peace officer shall thereupon, and upon the giving by such person of his or her written promise to appear at such time and place, forthwith release him or her from custody. Any person refusing to give such written promise to appear shall be taken immediately by the arresting peace officer before the nearest or most accessible magistrate.

Sec. 59. Section 54-157, Reissue Revised Statutes of Nebraska, is amended to read:

~~54-157.~~ Any person owning or possessing any hogs and desiring to ship, sell, or otherwise dispose of the same, may attach to any such hog, which has received double inoculation against hog cholera, a metal tag displaying the registered brand of such shipper, owner, or possessor, or such information as to enable any person reading the tag to readily ascertain the name and address of such shipper, owner, or possessor, which tag shall display the lettering CV. The tag shall be attached to the left ear of such hog at a point as close to the head as possible. The tag so affixed shall be the warranty of the shipper, owner, or possessor that the animal has actually received double inoculation against hog cholera.

Sec. 60. Section 54-158, Reissue Revised Statutes of Nebraska, is amended to read:

~~54-158.~~ Any person who shall attach or affix or shall cause to be attached or affixed the tag mentioned in section ~~54-157~~ 59 of this act to any hog which has not heretofore been given the double inoculation for hog cholera, or any person who shall attach such tag to any such animal, not then knowing that such animal had been so inoculated, shall be guilty of a Class V misdemeanor. The affixing of any such tag to any such hog which has not been given the double inoculation for hog cholera, shall be deemed a separate and distinct offense.

Sec. 61. Section 54-415, Reissue Revised Statutes of Nebraska, is amended to read:

~~54-415. It shall be the duty of any~~ Any person taking up an estray ~~to shall~~ report the same within seven days thereafter to the Nebraska Brand Committee, if within the brand inspection area, or to the county sheriff of the county where the estray was taken up, if ~~without~~ not within the brand inspection area. If the animal is determined to be an estray by a representative of the Nebraska Brand Committee or the county sheriff, as the case may be, such animal shall, as promptly as may be practicable, be sold through the most convenient livestock auction market. The proceeds of such sale, after deducting the selling expenses, shall be paid over to the Nebraska Brand Committee to be placed in the ~~Estray Fund~~ estrays fund identified in section 49 of this act, if such estray was taken up within the brand inspection area, and otherwise to the treasurer of the county in which such estray was taken up. During the time such proceeds are impounded, any person taking up such estray may file claim with the Nebraska Brand Committee or the county treasurer, as the case may be, for the expense of feeding and keeping such estray while in his or her possession. When such claim is filed it shall be the duty of the Nebraska Brand Committee or the county board, as the case may be, to decide on the validity of the claim so filed and allow the claim for such amount as may be deemed equitable. When the estray originates within the ~~Nebraska~~ brand inspection area such proceeds shall be impounded for one year, unless ownership is determined sooner by the Nebraska Brand Committee, and if ownership is not determined within such one-year period, the proceeds shall be paid into the ~~State School Fund~~ permanent school fund, less the actual expenses incurred in the investigation and processing of the ~~entire Estray Fund~~ estrays fund. Any amount deducted as actual expenses incurred shall be deposited in the Nebraska Brand Inspection and Theft Prevention Fund. When the estray is located outside the ~~Nebraska~~ brand inspection area and ownership cannot be determined by the county board, the county board shall then order payment of the balance of the sale proceeds less expenses, to the ~~State School Fund~~ permanent school fund. If the brand committee or the county board determines ownership of an estray sold in accordance with this section

by means of evidence of ownership other than the owner's recorded Nebraska brand, an amount not to exceed the actual investigative costs or expenses may be deducted from the proceeds of the sale. ~~The penalty for violation of this section shall be as provided in section 54-156. Any person who violates this section is guilty of a Class II misdemeanor. The definitions found in sections 3 to 21 of this act apply to this section.~~

Sec. 62. Section 54-1157, Reissue Revised Statutes of Nebraska, is amended to read:

54-1157. It is hereby declared to be the policy of the State of Nebraska, and the purpose of ~~sections 54-152 and 54-1157 to 54-1186 the Livestock Auction Act,~~ to encourage, stimulate, and stabilize the agricultural economy of the state in general, and the livestock economy in particular, by encouraging the construction, development, and productive operation of livestock auction markets as key industries of the state and those markets' particular trade areas, with all benefits of fully open, free, competitive factors, in respect to sales and purchases of livestock.

Sec. 63. Section 54-1158, Reissue Revised Statutes of Nebraska, is amended to read:

54-1158. As used in ~~sections 54-152 and 54-1157 to 54-1186 the Livestock Auction Act,~~ unless the context otherwise requires:

- (1) Person ~~shall mean~~ means any individual, firm, association, partnership, limited liability company, or corporation;
- (2) Department ~~shall mean~~ means the Department of Agriculture;
- (3) Director ~~shall mean~~ means the Director of Agriculture;
- (4) Board ~~shall mean~~ means the Livestock Auction Market Board;
- (5) Livestock ~~shall mean~~ means cattle, calves, horses, mules, swine, sheep, and goats;
- (6) Livestock auction market ~~shall mean~~ means any place, establishment, or facility commonly known as a livestock auction market, sales ring, or the like, conducted or operated for compensation as an auction market for livestock, consisting of pens or other enclosures, and their appurtenances, in which livestock are received, held, sold, or kept for sale or shipment;
- (7) Market license ~~shall mean~~ means the license for livestock auction market operation authorized to be issued under ~~such sections the act;~~ and
- (8) Livestock auction market operator ~~shall mean~~ means any person engaged in the business of conducting or operating a livestock auction market, whether personally or through agents or employees.

Sec. 64. Section 54-1159, Reissue Revised Statutes of Nebraska, is amended to read:

54-1159. ~~Sections 54-152 and 54-1157 to 54-1186 The Livestock Auction Act~~ shall not be construed to include:

- (1) Any place or operation where Future Farmers of America or 4-H groups, or private fairs conduct sales of livestock;
- (2) Any place or operation conducted for a dispersal sale of the livestock of farmers, ~~dairymen~~ dairy persons, or livestock breeders or feeders, where no other livestock is sold or offered for sale;
- (3) Any place or operation where a breeder or an association of breeders of livestock assemble and offer for sale and sell under their own management any livestock, when such breeders shall assume all responsibility of such sale and the title of livestock sold. This shall apply to all purebred livestock association sales; or
- (4) Any presently existing livestock market known as a terminal livestock market and regulated under the provisions of the federal Packers and Stockyards Act, 1921, 7 U.S.C. 181 et seq., and amendments thereto.

Sec. 65. Section 54-1160, Reissue Revised Statutes of Nebraska, is amended to read:

54-1160. There is hereby created in the Department of Agriculture a Livestock Auction Market Board consisting of three members. The board shall consist of the Director of Agriculture, the State Veterinarian, and a livestock auction market operator to be appointed by the Governor. The Director of Agriculture shall be chairperson of the board. The term of office of the appointed member shall be four years. The appointed member shall receive as compensation for his or her services the sum of ten dollars per day and actual expenses incurred while in the discharge of his or her duties. The board shall meet at least quarterly for the ordinary transaction of official business and otherwise at the call of the director. A majority affirmative vote of the board shall be necessary to constitute an official act.

The board shall have power and duty to:

- (1) Administer the ~~Nebraska Livestock Auction Market Development Act~~ in respect to recommending the issuance, suspensions, and revocations of

market licenses;

(2) Prescribe and adopt the forms of application for market licenses, the forms of notice of hearings on market license applications, and such other forms as necessary to perform and carry out its functions;

(3) Adopt and promulgate rules subject to the approval of the director governing the conduct of hearings before it for applications for market licenses, transfers, suspensions, and revocations consistent with the ~~Nebraska Livestock Auction Market Development Act~~ and not contrary to the general laws of Nebraska governing hearings before administrative boards; and

(4) Administer section 54-1166 relating to terminations of market licenses and hearings regarding such terminations.

Sec. 66. Section 54-1163, Reissue Revised Statutes of Nebraska, is amended to read:

54-1163. The hearing required by section 54-1162 shall be heard by two or more members of the board. If the board determines, after such hearing, that the proposed livestock auction market would beneficially serve the livestock economy, it shall issue a market license to the applicant. In determining whether or not the application should be granted or denied, the board shall give reasonable consideration to:

(1) The ability of the applicant to comply with the federal Packers and Stockyards Act, 1921, 7 U.S.C. 181 et seq., as amended;

(2) The financial stability, business integrity, and fiduciary responsibility of the applicant;

(3) The adequacy of the facilities described to permit the performance of market services proposed in the application;

(4) The present needs for market services or additional services as expressed by livestock growers and feeders in the community; and

(5) Whether the proposed livestock auction market would be permanent and continuous.

Sec. 67. Section 54-1165, Reissue Revised Statutes of Nebraska, is amended to read:

54-1165. Every livestock auction market operator shall pay annually, on or before August 1, a market license fee of one hundred fifty dollars to the board for each livestock auction market operated by him or her, which payment shall constitute a renewal for one year. Fees so paid shall be ~~deposited with the state treasury and placed by~~ remitted to the State Treasurer ~~in~~ for credit to the Livestock Auction Market Fund for the use of the board in paying the expenses of administration of the ~~provisions of sections 54-152 and 54-1157 to 54-1186 Livestock Auction Act.~~

Sec. 68. Section 54-1168, Reissue Revised Statutes of Nebraska, is amended to read:

54-1168. Every market license holder under the ~~provisions of sections 54-152 and 54-1157 to 54-1186 Livestock Auction Act~~ shall keep an accurate record of all transactions conducted in the ordinary course of his or her business. Such records shall be available for examination of the board, or its duly authorized representative, in respect to a market license issued under the ~~provisions of sections 54-152 and 54-1157 to 54-1186 such act.~~

Sec. 69. Section 54-1169, Reissue Revised Statutes of Nebraska, is amended to read:

54-1169. The board may, upon its own motion, whenever it has reason to believe the provisions of ~~sections 54-152 and 54-1157 to 54-1186 the Livestock Auction Act~~ have been violated, or upon verified complaint of any person in writing, investigate the actions of any market license holder, and if it finds probable cause to do so, shall file a complaint against the market license holder which shall be set down for hearing before the board upon fifteen days' notice served upon such market license holder either by personal service upon him or her or by registered or certified mail or telegram prior to such hearing.

The director shall have the power to administer oaths, certify to all official acts, and ~~shall have the power to~~ subpoena and bring before the board any person in this state as a witness, to compel the producing of books and papers, and to take the testimony of any person on deposition in the same manner as is prescribed by law in the procedure before the courts of this state in civil cases. Processes issued by the director shall extend to all parts of the state and may be served by any person authorized to serve processes. Each witness who shall appear by the order of the director at any hearing before the board shall receive for such attendance the same fees allowed by law to witnesses in civil cases appearing in the district court and mileage at the same rate provided in section 81-1176, ~~for state employees,~~ which amount shall be paid by the party at whose request such witness is subpoenaed. When any witness has not been required to attend at the request of any party, but has been subpoenaed by the director, his or her fees and

mileage shall be paid by the director in the same manner as other expenses of the board are paid.

All powers of the director as provided in this section shall likewise be applicable to hearings held on applications for the issuance of a market license.

Formal finding by the board after due hearing that any market license holder: (1) Has ceased to conduct a livestock auction market business; (2) has been guilty of fraud or misrepresentation as to the titles, charges, number, brands, weights, proceeds of sale, or ownership of livestock; (3) has violated any of the provisions of ~~sections 54-152 and 54-1157 to 54-1186~~ the Livestock Auction Act; or (4) has violated any of the rules or regulations adopted and published by the board, shall be sufficient cause for the suspension or revocation of the market license of the offending livestock auction market operator.

Sec. 70. Section 54-1171, Reissue Revised Statutes of Nebraska, is amended to read:

54-1171. Any person who ~~shall violate~~ violates any provision or requirements of ~~sections 54-152 and 54-1157 to 54-1186~~, shall be the Livestock Auction Act is guilty of a Class II misdemeanor. Each day any person operates or conducts a livestock auction market in this state without a license as prescribed in ~~sections 54-152 and 54-1157 to 54-1186~~ shall be such act is considered a separate offense. The director may institute proceedings to enjoin the operation of a livestock auction market if the person sought to be enjoined is operating a livestock auction market without a market license in good standing as provided in ~~sections 54-152 and 54-1157 to 54-1186~~ such act.

Sec. 71. Section 54-1172, Reissue Revised Statutes of Nebraska, is amended to read:

54-1172. Salaries and expenses of employees, costs of hearings, and all other costs of the board in the administration of ~~sections 54-152 and 54-1157 to 54-1186~~ the Livestock Auction Act shall be paid from the Livestock Auction Market Fund which is hereby created. Any money in the Livestock Auction Market Fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Sec. 72. Section 54-1173, Reissue Revised Statutes of Nebraska, is amended to read:

54-1173. The license and permit fees collected as provided by the ~~Nebraska Livestock Auction Market Development Act and section 54-152~~ shall be are an occupation tax and shall be remitted to the State Treasurer for credit to the Livestock Auction Market Fund. All money so collected shall be appropriated to the uses of the Department of Agriculture for the purpose of administering such act ~~and section~~ and shall be paid out only on vouchers approved by the director and upon the warrant or warrants issued by the Director of Administrative Services. Any unexpended balance in such fund at the close of any biennium shall, when reappropriated, be available for the uses and purposes of the fund for the succeeding biennium; otherwise it shall lapse into the General Fund. ~~Any money in the Livestock Auction Market Fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.~~

Sec. 73. Section 54-1174, Reissue Revised Statutes of Nebraska, is amended to read:

54-1174. A copy of any license and bond provided for in ~~sections 54-152 and 54-1157 to 54-1186~~ the Livestock Auction Act and certified by the director may be procured upon payment of a fee of one dollar for each copy, and shall be received as competent evidence in any court in the State of Nebraska without further proof.

Sec. 74. Section 54-1176, Reissue Revised Statutes of Nebraska, is amended to read:

54-1176. Upon application in writing to the director, accompanied by a permit fee of one dollar, the director shall issue annual licenses to weighmasters required by section 54-1175. If the applicant is an individual, the application shall include the applicant's social security number. Subject to the conditions of ~~sections 54-152 and 54-1157 to 54-1186~~ the Livestock Auction Act, the director may summarily dismiss any weighmaster employee at any livestock auction market at any time. The money arising from permit fees of weighmasters shall be occupation tax and not license money.

Sec. 75. Section 54-1182, Reissue Revised Statutes of Nebraska, is amended to read:

54-1182. Any ~~cattle, calves, horses, mules, swine, sheep, and goats~~ livestock sold or disposed of at a livestock auction market, before removal therefrom, shall be released by the authorized veterinarian, designated by the

State Veterinarian as provided in ~~sections 54-152 and 54-1157 to 54-1186~~ the Livestock Auction Act, and treated to conform with the health requirements of the rules and regulations prescribed by the State Veterinarian for the movement of livestock. When required, ~~such the~~ authorized veterinarian shall furnish each owner with a certificate showing such inspection, treatment, or quarantine. No such livestock for interstate or intrastate shipment shall be released until all the requirements of the state of its destination shall have been complied with. Any diseased or exposed livestock shall be handled in accordance with the rules and regulations as prescribed by the State Veterinarian.

Sec. 76. Section 54-1183, Reissue Revised Statutes of Nebraska, is amended to read:

54-1183. The owner or operator of any livestock auction market or packing plant located in any county outside the ~~Nebraska~~ brand inspection area created in section ~~54-134~~ 40 of this act may voluntarily elect to provide brand inspection for all cattle brought to such livestock auction market or packing plant from within the brand inspection area upon compliance with sections 54-1183 to 54-1185.

Sec. 77. Section 54-1185, Reissue Revised Statutes of Nebraska, is amended to read:

54-1185. Inspection provided for in sections 54-1183 to 54-1185 shall be conducted in the manner established by ~~sections 54-134 to 54-156~~ the Livestock Brand Act. The owner or operator making such election shall 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 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 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. 78. Section 54-1186, Reissue Revised Statutes of Nebraska, is amended to read:

~~54-1186.~~ Sections 54-1157 to ~~54-1186~~ 54-1185 and this section shall be known and may be cited as the ~~Nebraska Livestock Auction Market Development Act~~.

Sec. 79. Section 54-2001, Reissue Revised Statutes of Nebraska, is amended to read:

54-2001. For purposes of the Nebraska Livestock Market Act, unless the context otherwise requires:

(1) Certified veterinarian ~~shall mean~~ means an accredited veterinarian employed by or under contract to a livestock market to perform the duties required by the act. Certification shall be made by the director in accordance with section 54-2006;

(2) Bureau ~~shall mean~~ means the Department of Agriculture, Bureau of Animal Industry;

(3) Department ~~shall mean~~ means the Department of Agriculture;

(4) Director ~~shall mean~~ means the Director of Agriculture;

(5) License ~~shall mean~~ means the authorization for a livestock market issued under the act;

(6) Livestock ~~shall mean~~ means cattle, calves, sheep, swine, horses, mules, and goats;

(7) Livestock market ~~shall mean~~ means any place, establishment, or facility operated or managed as a market for livestock consisting of pens or other enclosures and their appurtenances where livestock are received, held, sold, or kept for resale or shipment in commerce, but shall not include: (a) Livestock auction markets licensed under the ~~Nebraska Livestock Auction Market Development Act~~; (b) any place or operation where Future Farmers of America, 4-H groups, or private fairs conduct sales of livestock; (c) any place or operation where a breeder or an association of breeders of livestock assemble and offer for sale and sell under their own management any livestock when such breeders shall assume all responsibility of such sale and the title of livestock sold; or (d) licensed livestock dealers operating pursuant to the Nebraska Livestock Dealer Licensing Act;

(8) Livestock market operator ~~shall mean~~ means any person engaged in the business of conducting or operating a livestock market, whether personally or through agents or employees;

(9) Person ~~shall mean~~ means any individual, firm, association, partnership, limited liability company, or corporation; and

(10) State Veterinarian ~~shall mean~~ means the chief of the Bureau of Animal Industry, Department of Agriculture.

Sec. 80. Section 54-2012, Reissue Revised Statutes of Nebraska, is amended to read:

54-2012. The owner or operator of any livestock market located in any county adjacent to the ~~Nebraska~~ brand inspection area, as ~~defined~~ described in section ~~54-134~~ 40 of this act, may voluntarily elect to provide brand inspection for any cattle brought to such livestock market from within the brand inspection area upon compliance with the provisions of this section and sections 54-2013 and 54-2014.

Sec. 81. Section 54-2014, Reissue Revised Statutes of Nebraska, 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 ~~sections 54-134 to 54-156~~ the Livestock Brand Act. The livestock market operator making such election shall guarantee to the Nebraska Brand Committee that inspection fees derived from such livestock market shall be sufficient, in each six-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 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. 82. The Revisor of Statutes shall assign sections 59 and 60 of this act to Chapter 54, article 15.

Sec. 83. Original sections 54-157, 54-158, 54-415, 54-1157 to 54-1160, 54-1163, 54-1165, 54-1168, 54-1169, 54-1171 to 54-1174, 54-1176, 54-1182, 54-1183, 54-1185, 54-1186, 54-2001, 54-2012, and 54-2014, Reissue Revised Statutes of Nebraska, are repealed.

Sec. 84. The following sections are outright repealed: Sections 54-101 to 54-110, 54-112, 54-114 to 54-119, 54-121, 54-125, 54-126, 54-129 to 54-133.01, 54-133.03, 54-134, 54-135 to 54-137.01, 54-138, 54-140, 54-141, 54-142 to 54-144, 54-145.01 to 54-145.06, 54-147 to 54-148, 54-150, 54-152 to 54-153.03, 54-155, 54-156, and 54-159 to 54-169, Reissue Revised Statutes of Nebraska.