

## LEGISLATIVE BILL 589

Approved by the Governor February 27, 2002

Introduced by Dierks, 40

AN ACT relating to the Livestock Brand Act; to amend sections 54-193, 54-198, 54-199, 54-1,100, 54-1,102, 54-1,105, 54-1,108, and 54-1,110, Revised Statutes Supplement, 2000; to change provisions relating to publications, brands, and fees; to harmonize provisions; and to repeal the original sections.

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

Section 1. Section 54-193, Revised Statutes Supplement, 2000, is amended to read:

54-193. The Nebraska Brand Committee shall periodically have published in book form, electronic medium, or such other method prescribed by the committee a list of all brands recorded with the brand committee at the time of such publication. Such ~~brand book~~ publication 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 and shall be arranged in convenient form for reference. The brand committee shall send, without any charge, the ~~number of copies~~ publication as required by section 51-413 to the Nebraska Publications Clearinghouse and shall send one copy of the brand book and supplements thereto provide the publication 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~~ publication may be sold to the general public for a price equal to or less than the actual cost of ~~printing~~ production.

Sec. 2. Section 54-198, Revised Statutes Supplement, 2000, is amended to read:

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

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

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

Sec. 3. Section 54-199, Revised Statutes Supplement, 2000, is amended to read:

54-199. (1) To record a brand, a person shall forward to the Nebraska Brand Committee a facsimile or description 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.~~ established by the brand committee. Such recording fee may vary according to the number of locations and methods of brand requested but shall not be more than one hundred dollars per application.

(2) For recording of visual brands, upon ~~Upon~~ receipt of such a facsimile of the brand, an application, and the required 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 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 visual brands shall be recorded as a hot iron brand only unless a co-recording as a freeze brand or other approved method of branding 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) The brand committee may, by rule and regulation, provide for the recording and use of brands by electronic device or other nonvisual method of livestock identification. Any such method of livestock identification shall be approved as a brand only if it functions as a means of identifying ownership of livestock so branded that is equal to, or superior to, visual methods of livestock branding. Before approving any nonvisual method of branding, the brand committee shall consider the degree to which such method may be susceptible to error, failure, or fraudulent alteration. Any rule or regulation shall be adopted only after public hearing conducted in compliance with the Administrative Procedure Act.

(5) If the facsimile, the description, 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~~ visual 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. 4. Section 54-1,100, Revised Statutes Supplement, 2000, is amended to read:

54-1,100. 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. The , and the fee for recording such an instrument is shall be established by the brand committee and shall not be more than thirty-five ~~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. 5. Section 54-1,102, Revised Statutes Supplement, 2000, is amended to read:

54-1,102. (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~~ established by the brand committee which shall not be more than fifty 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 the 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 for such brand established by the brand committee under section 54-199 plus 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. 6. Section 54-1,105, Revised Statutes Supplement, 2000, is amended to read:

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

(2) If the owners of recorded brands which conflict with or closely resemble each other maintain their herds in close proximity to each other, the 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. 7. Section 54-1,108, Revised Statutes Supplement, 2000, is amended to read:

54-1,108. (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 established 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. Such fee may vary to encourage inspection to be performed at times and locations that reduce the cost of performing the inspection but shall otherwise be uniform. 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. 8. Section 54-1,110, Revised Statutes Supplement, 2000, is amended to read:

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

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

(3) If the line designating the brand inspection area divides a farm or ranch or lies between noncontiguous parcels of land which are owned or operated by the same cattle owner or owners, a permit may be issued, at the discretion of the Nebraska Brand Committee, to the owner or owners of cattle

on such farm, ranch, or parcels of land to move the cattle in and out of the brand inspection area without inspection. If the line designating the brand inspection area lies between a farm or ranch and nearby veterinary medical facilities, a permit may be issued, at the discretion of the brand committee, to the owner or owners of cattle on such farm or ranch to move the cattle in and out of the brand inspection area without inspection to obtain care from the veterinary medical facilities. The brand committee shall issue initial permits only after receiving an application which includes an application fee ~~of ten dollars~~ established by the brand committee which shall not be more than fifteen 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~~ established by the brand committee which shall not be more than fifteen dollars. If the permit conditions still exist, the cattle owner or owners may renew the permit.

(4) No person shall sell any cattle knowing that the cattle are to be moved, in any manner, in violation of this section. Proof of shipment or removal of the cattle from the brand inspection area by the 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. 9. Original sections 54-193, 54-198, 54-199, 54-1,100, 54-1,102, 54-1,105, 54-1,108, and 54-1,110, Revised Statutes Supplement, 2000, are repealed.