

LEGISLATIVE BILL 158

Approved by the Governor March 20, 2003

Introduced by Kremer, 34

AN ACT relating to livestock; to amend sections 54-2238, 54-2244, 54-2254, 54-2277, 54-2280, 54-2287, 54-2289, 54-2290, 54-2296, and 54-2299, Reissue Revised Statutes of Nebraska; to adopt the Scrapie Control and Eradication Act; to create a fund; to provide penalties; to change and eliminate provisions relating to the Pseudorabies Control and Eradication Act; to provide operative dates; to repeal the original sections; to outright repeal sections 54-2261, 54-2282, 54-2284, and 54-2285, Reissue Revised Statutes of Nebraska; and to declare an emergency.

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

Section 1. Sections 1 to 61 of this act shall be known and may be cited as the Scrapie Control and Eradication Act.

Sec. 2. It is the intent of the Legislature to have a scrapie control and eradication program. The goal of the program is to eliminate scrapie from the animals of the state through a process of eradication and surveillance. The program shall be designed to eradicate scrapie from all flocks where scrapie is found and to use surveillance to achieve and maintain scrapie-free conditions in the state. The department in cooperation with APHIS will enforce the program subject to the availability of funds appropriated by the Congress of the United States or the Legislature.

Sec. 3. For purposes of the Scrapie Control and Eradication Act, unless the context otherwise requires, the definitions found in sections 4 to 41 of this act shall be used. All citations to the Code of Federal Regulations, C.F.R., in the act refer to such regulations as they existed on January 1, 2003.

Sec. 4. Accredited veterinarian means a veterinarian approved by the administrator of APHIS and the State Veterinarian in accordance with 9 C.F.R. 161 to perform functions required by cooperative state-federal animal disease control and eradication programs.

Sec. 5. Administrator means the administrator of APHIS or any employee of the United States Department of Agriculture to whom the administrator has delegated authority to act for the administrator.

Sec. 6. Animal means any sheep or goat.

Sec. 7. APHIS means the United States Department of Agriculture, Animal and Plant Health Inspection Service.

Sec. 8. APHIS representative means an individual employed by APHIS in animal health activities who is authorized by the administrator to perform the functions and duties involved in the scrapie control and eradication program.

Sec. 9. Approved laboratory means a diagnostic laboratory approved by APHIS to conduct tests for scrapie or genotypes on one or more tissues.

Sec. 10. Certificate of veterinary inspection means an official document approved by the department or United States Department of Agriculture issued by an accredited veterinarian at the point of origin of movement of animals.

Sec. 11. Commingle means to group animals together having physical contact with each other, including contact through a fence, but not limited contact. Commingling includes sharing the same section in a transportation unit where physical contact may occur.

Sec. 12. Consistent state means a state listed in 9 C.F.R. 79.1 that the administrator has determined is conducting an active scrapie control and eradication program.

Sec. 13. Department means the Department of Agriculture or its authorized designee.

Sec. 14. Designated scrapie epidemiologist means a state or federal veterinarian designated by the state, in conjunction with APHIS, to make decisions about the use and interpretation of diagnostic tests and field investigation data and the management of scrapie-affected flocks.

Sec. 15. Exposed animal means:

(1) Any animal that has been in the same flock at the same time as a scrapie-positive female animal, excluding limited contacts;

(2) Any animal born in a flock after a scrapie-positive animal was born into that flock or lambed in that flock, if born before that flock completes the requirements of a flock plan;

(3) Any animal that was commingled with a scrapie-positive female animal during or up to thirty days after she lambed, kidded, or aborted, or while a visible vaginal discharge was present, or that was commingled with any other scrapie-positive female animal for twenty-four hours or more, including during activities such as shows and sales or while in marketing channels; or

(4) Any animal in a noncompliant flock.

Sec. 16. Exposed flock means any flock in which a scrapie-positive animal was born or lambed or any flock that currently contains a female high-risk, exposed, or suspect animal, or that once contained a female high-risk or suspect animal that lambed in the flock and from which tissues were not submitted for official testing and found negative. A flock that has completed a postexposure management and monitoring plan following the exposure will no longer be an exposed flock.

Sec. 17. Flock means a group of sheep or goats or a mixture of both species, residing on the same premises, and all animals under common ownership or supervision on two or more premises with animal interchange between the premises. Changes in ownership of part or all of a flock do not change the identity of the flock or the regulatory requirements applicable to the flock. Animals maintained temporarily on a premises for activities such as shows and sales or while in marketing channels are not a flock. More than one flock may be maintained on a single premises if:

(1) The flocks are enrolled as separate flocks in the scrapie flock certification program; or

(2) The department or APHIS representative determines, based upon examination of flock records, that:

(a) There is no interchange of animals between the flocks;

(b) The flocks never commingle and are kept at least thirty feet apart at all times or are separated by a solid wall through, over, or under which fluids cannot pass and through which contact cannot occur;

(c) The flocks have separate flock records and identification;

(d) The flocks have separate lambing facilities, including buildings and pastures, and a pasture or building used for lambing by one flock is not used by the other flock at any time; and

(e) The flocks do not share equipment without cleaning and disinfection in accordance with 9 C.F.R. 54.7(e). Additional guidance on acceptable means of cleaning and disinfection is also available in the federal scrapie flock certification program standards and the federal Scrapie Eradication Uniform Methods and Rules.

Sec. 18. Flock of origin means the flock in which an animal most recently resided in which it either was born, gave birth, or was used for breeding purposes. The determination that an animal originated in a flock may be based either on the physical presence of the animal in the flock, the presence of official identification on the animal traceable to the flock, the presence of other identification on the animal that is listed on the bill of sale, or other evidence to be determined by the designated scrapie epidemiologist.

Sec. 19. Flock plan means a written flock management agreement signed by the owner of a flock, the accredited veterinarian if one is employed by the owner, and a department or APHIS representative, in which each participant agrees to undertake actions specified in the flock plan to control the spread of scrapie from and eradicate scrapie in an infected flock or source flock or to reduce the risk of the occurrence of scrapie in a flock that contains a high-risk or an exposed animal. As part of a flock plan, the flock owner shall provide the facilities and personnel needed to carry out the requirements of the flock plan. The flock plan shall include the requirements in 9 C.F.R. 54.8.

Sec. 20. Goats that reside with sheep means goats that are kept on the same premises where sheep are found, regardless of separate fencing, penning, or housing, unless designated as a separate flock by the designated scrapie epidemiologist.

Sec. 21. High-risk animal means a sexually intact animal that is:

(1) The progeny of a scrapie-positive dam;

(2) Born in the same flock during the same lambing season as progeny of a scrapie-positive dam, unless the progeny of the scrapie-positive dam are from separate contemporary lambing groups;

(3) Born in the same flock during the same lambing season that a scrapie-positive animal was born or during any subsequent lambing season, if born before that flock completes requirements of a flock plan; or

(4) An exposed female sheep determined to be genetically susceptible or of unknown genotype.

Male sheep that have been tested and classified as resistant using an official genotype test are excluded from the definition of high-risk

animal.

Sec. 22. Infected flock means any flock in which the designated scrapie epidemiologist has determined that a scrapie-positive female animal has resided unless an epidemiological investigation conducted by the designated scrapie epidemiologist shows that the animal did not lamb or abort in the flock. A flock will no longer be considered an infected flock after it has completed the requirements of a flock plan.

Sec. 23. Interstate commerce means trade, traffic, transportation, or other commerce between a place in a state and any place outside that state, or between points within a state but through any place outside that state.

Sec. 24. Limited contact means incidental contacts between animals from different flocks off the flock's premises such as at fairs, shows, exhibitions, and sales; between ewes being inseminated, flushed, or implanted; or between rams at ram test or collection stations. Embryo transfer and artificial insemination equipment and surgical tools shall be sterilized before each use for these contacts to be considered limited contacts. Limited contacts do not include any contact, incidental or otherwise, with animals in the same flock or with an animal during or up to thirty days after a female animal lambed, kidded, or aborted or when there is any visible vaginal discharge. Limited contacts do not include any activity where uninhibited contact occurs, such as sharing an enclosure, sharing a section of a transport vehicle, or residing in other flocks for breeding or other purposes, except as allowed by the scrapie flock certification program standards.

Sec. 25. Live-animal screening test means any test for the diagnosis of scrapie in a live animal that is approved by the administrator as usually reliable but not definitive for diagnosing scrapie and that is conducted in a laboratory approved by the administrator.

Sec. 26. Noncompliant flock means:

(1) Any source or infected flock whose owner declines to enter into a flock plan or postexposure management and monitoring plan within thirty days after being so designated, or whose owner is not in compliance with either plan;

(2) Any exposed flock whose owner fails to make animals available for testing within sixty days after notification, or as mutually agreed, or whose owner fails to submit required postmortem samples;

(3) Any flock whose owner or manager has misrepresented, or who employs a person who has misrepresented, the scrapie status of an animal or any other information on a certificate, permit, owner statement, or other official document within the past five years;

(4) Any flock whose owner or manager has moved, or who employs a person who has moved, an animal in violation of the Scrapie Control and Eradication Act within the past five years; or

(5) Any flock which fails to follow the requirements of a flock plan or a postexposure management and monitoring plan.

Sec. 27. Official genotype test means any test to determine the genotype of a live or dead animal that is conducted at an approved laboratory or at the National Veterinary Services Laboratory when the animal is officially identified and the samples used for the test are collected and shipped to the laboratory by either an accredited veterinarian or a department or APHIS representative.

Sec. 28. Official identification means identification approved by the department and APHIS for use in the scrapie control and eradication program in Nebraska.

Sec. 29. Official test means any test for the diagnosis of scrapie in a live or dead animal that is approved by the administrator for that use and conducted at an approved laboratory or at the National Veterinary Services Laboratory.

Sec. 30. Owner means a person, partnership, company, corporation, or any other legal entity which has legal or rightful title to animals, whether or not the animals are subject to a mortgage.

Sec. 31. Permit means an official document issued by a department or APHIS representative or an authorized accredited veterinarian that allows the interstate movement of animals under quarantine, such as exposed, noncompliant, infected, or source flock animals, whether the animals are high-risk, exposed, scrapie-positive, or scrapie-suspect. A seal may be required by the department or area veterinarian-in-charge.

Sec. 32. Postexposure management and monitoring plan means a written agreement signed by the owner of a flock, any accredited veterinarian employed by the owner, and a department or APHIS representative, in which each participant agrees to undertake actions specified in the agreement to monitor for the occurrence of scrapie in the flock for at least five years after the last high-risk or scrapie-positive animal is removed from the flock or after

the last exposure of the flock to a scrapie-positive animal, unless otherwise specified by a department or APHIS representative. As part of a postexposure management and monitoring plan, the flock owner shall provide the facilities and personnel needed to carry out the requirements of the plan. The plan shall include the requirements in 9 C.F.R. 54.8.

Sec. 33. Premises means the ground, area, buildings, and equipment occupied by one or more flocks.

Sec. 34. Quarantine means an imposed restriction by the department prohibiting movement of animals to any location without specific written permits and prohibition of use by the department of the premises, vehicles, and equipment used for such animals or flocks.

Sec. 35. Scrapie means a nonfebrile, transmissible, insidious, degenerative disease affecting the central nervous system of sheep and goats.

Sec. 36. Scrapie control and eradication program means the cooperative state-federal-industry program administered by APHIS and consistent states to control and eradicate scrapie.

Sec. 37. Scrapie flock certification program means a voluntary state-federal-industry cooperative program established and maintained to reduce the occurrence and spread of scrapie, identify flocks that have been free of evidence of scrapie over specified time periods, and contribute to the eventual eradication of scrapie.

Sec. 38. Scrapie-positive animal means an animal for which a diagnosis of scrapie has been made by an approved laboratory through one of the following:

(1) Histopathological examination of central nervous system tissues from the animal for characteristic microscopic lesions of scrapie;

(2) The use of proteinase-resistant protein analysis methods including, but not limited to, immunohistochemistry or western blotting on central nervous system or peripheral tissue samples from a live or a dead animal for which a given method has been approved by the administrator for use on that tissue;

(3) Bioassay;

(4) Scrapie associated fibrils detected by electron microscopy; or

(5) Any other test method approved by the administrator in accordance with 9 C.F.R. 54.10.

Sec. 39. Source flock means a flock in which a department or APHIS representative has determined that at least one animal was born that was diagnosed as a scrapie-positive animal at an age of seventy-two months or less. The determination that an animal was born in a source flock shall be in accordance with the guidelines in 9 C.F.R. parts 54 and 79. A flock will no longer be a source flock after the requirements of a flock plan have been completed.

Sec. 40. Suspect animal means:

(1) A sheep or goat that exhibits any of the following possible signs of scrapie and that has been determined to be suspicious for scrapie by an accredited veterinarian or a department or APHIS representative. Possible signs include: Weight loss despite retention of appetite; behavioral abnormalities; itching; wool pulling; biting at legs or sides; lip smacking; motor abnormalities such as incoordination, high stepping gait of forelimbs, bunny hop movement of rear legs, or swaying of back end; increased sensitivity to noise and sudden movement; or tremor, star gazing, head pressing, recumbency, or other signs of neurological disease or chronic wasting;

(2) A sheep or goat that has tested positive for scrapie or for the proteinase-resistant protein associated with scrapie on a live-animal screening test or any other official test, unless the animal is designated a scrapie-positive animal; and

(3) A sheep or goat that has tested inconclusive or suggestive on an official test for scrapie.

Sec. 41. Trace means all actions required to identify the flock of origin or destination of an animal.

Sec. 42. The Scrapie Control and Eradication Act shall be administered and enforced by the Bureau of Animal Industry of the department. In administering the act, the department shall cooperate and may contract with persons or appropriate local, state, or national organizations, public or private, for the performance of activities required or authorized pursuant to the act.

Sec. 43. The department shall cooperate with APHIS by recommending where and how federal funds and state personnel and materials are allocated for the scrapie control and eradication program.

Sec. 44. Any flock or animal determined by the department to be infected and any flock or animal for which the owner refuses to comply with the Scrapie Control and Eradication Act or any rules and regulations adopted

and promulgated pursuant thereto shall be put under quarantine by the department, at the expense of the owner, and a flock plan shall be filed.

Sec. 45. Any flock or animal determined to be exposed or to be a source flock by the department and any flock or animal for which the owner refuses to comply with the Scrapie Control and Eradication Act or any rules and regulations adopted and promulgated pursuant thereto may be put under quarantine by the department, at the expense of the owner, and a flock plan shall be filed.

Sec. 46. Each owner or authorized representative of the owner of a flock under quarantine shall file a flock plan with the department within a maximum of thirty days after the date of issuance of the quarantine. The flock plan shall include followup inspections. Each owner or authorized representative shall follow as standards for the flock plan those indicated by the scrapie control and eradication program and those indicated by the postexposure management and monitoring plan.

Sec. 47. It is the duty of any person who discovers, suspects, or has reason to believe that any sheep or goat belonging to him or her or which he or she has in his or her possession or custody or which, belonging to another, may come under his or her observation, is affected with signs consistent with scrapie to immediately report such fact, belief, or suspicion to the department or to any agent, employee, or appointee thereof.

Sec. 48. The department may adopt and promulgate rules and regulations to aid in implementing the Scrapie Control and Eradication Act. The rules and regulations may include, but are not limited to:

(1) The scrapie flock certification program, including testing provisions governing: (a) When, where, how, by whom, and how often testing is to be done; (b) what flocks are to be subjected to testing; (c) how and by whom results of testing are to be recorded; (d) by whom and to whom the results of the testing are to be reported; and (e) how, by whom, and for what purposes such results will be utilized;

(2) The scrapie control and eradication program, including provisions governing: (a) When, where, how, by whom, and how often testing is to be done; (b) what flocks are to be subjected to testing; (c) requirements of flock cleanup plans, including forms, execution, contents, duration, amendments, and enforcement; (d) how and by whom results of testing are to be recorded; (e) by whom and to whom the results of the testing are to be reported; (f) how, by whom, and for what purposes such results will be utilized; and (g) assignment of and requirements for titles for status of sheep or goat flocks and the suspension, expiration, and cancellation of such titles;

(3) Surveillance in flocks and at slaughter establishments and concentration points, including provisions governing: (a) When, where, how, by whom, and how often testing is to be done; (b) what sheep or goats and flocks are to be subjected to testing; (c) how and by whom results of testing are to be recorded and reported; and (d) the use of the results of testing by the department;

(4) The issuance and release of quarantines and the requirements regarding the handling, movement, and disposition of animals under quarantine;

(5) The cleaning and disinfecting of affected premises, including provisions governing: (a) The materials to be used; (b) the procedures to be used; and (c) when such procedures are to be performed;

(6) The testing of animals to detect scrapie, including provisions governing: (a) Which tests are to be deemed official tests; (b) by whom the testing is to be administered; (c) how the testing is to be conducted; (d) the reaction tolerances to be recognized; and (e) the classification of results as to negative, suspect, or positive. These rules and regulations shall be consistent with the best available scientific information relative to the control and eradication of scrapie;

(7) The identification of premises and animals subject to the act, including provisions governing: (a) Exposed and infected animals; (b) source flocks; (c) animals to be tested; (d) type of identification; and (e) animals requiring identification as required for compliance with 9 C.F.R. parts 54 and 79;

(8) The administration of the scrapie control and eradication program subject to the availability of funds;

(9) The assessment and collection of costs for services provided and expenses, not to exceed actual costs, incurred under the act;

(10) The preparation, maintenance, handling, filing, and disposition of records and reports by persons subject to the act concerning the testing or movement of animals;

(11) Program activities and cleanup testing under the act on which state funds, if appropriated and available, shall be used by the department

and limitations on use of such state funds for testing and other activities under the act;

(12) Prohibitions and movement conditions of animals in interstate and intrastate movement;

(13) Requirements for change of ownership to include (a) testing, (b) identification, and (c) records;

(14) Activities required for flocks deemed by officials to be included in an APHIS indemnification process, as provided in 9 C.F.R. part 54, including eligibility, application, owner certification statements, amount of indemnity payments, procedure for destruction of animals, and flock plans and postexposure management and monitoring plans; and

(15) Any other areas deemed necessary by the department to effectively control and eradicate scrapie.

Sec. 49. The department shall select and appoint, in conjunction with APHIS, a designated scrapie epidemiologist.

Sec. 50. (1) To insure compliance with the Scrapie Control and Eradication Act, the department may apply for a temporary restraining order, a temporary or permanent injunction, or a mandatory injunction against any person violating or threatening to violate the act or the rules and regulations adopted and promulgated under the act. The district court of the county where the violation is occurring or is about to occur shall have jurisdiction to grant such relief upon good cause shown. Relief may be granted notwithstanding the existence of any other remedy at law and shall be granted without bond.

(2) The Attorney General or the county attorney of the county in which violations of the act or the rules and regulations are occurring or are about to occur shall, when notified of such violation or threatened violation, cause appropriate proceedings under subsection (1) of this section to be instituted and pursued without delay and shall prosecute such violations under section 61 of this act without delay.

Sec. 51. In administering the Scrapie Control and Eradication Act, the agents and employees of the department shall have access to any premises where animals may be for purposes of the scrapie control and eradication program or when the department has reasonable cause to believe that infected or exposed animals are present on the premises.

Sec. 52. (1) Any person subject to the Scrapie Control and Eradication Act shall keep records and reports on file for five years pertaining to testing and identification and the movement of animals infected with or exposed to, or suspected of being infected with or exposed to, scrapie. Such person shall keep on file any other records and make any reports the department deems necessary to enforce the act.

(2) Any person subject to the act shall, at all reasonable times, provide access to all records and reports to the department and its representatives for the purpose of examining and copying such records and reports necessary to enforce the act.

Sec. 53. When testing or identification is to be performed pursuant to the Scrapie Control and Eradication Act, the owner of the animals shall be responsible for gathering, confining, and restraining the animals for testing and for providing the necessary facilities and assistance.

Sec. 54. (1) It is unlawful for a buyer to purchase animals for feeding, breeding, or both from a seller who has not complied with the Scrapie Control and Eradication Act and the rules and regulations adopted and promulgated pursuant thereto or to import such animals into the state if the seller has not complied with the Scrapie Control and Eradication Act or Animal Importation Act and the rules and regulations adopted and promulgated pursuant to such acts.

(2) It is unlawful for a seller to sell or import animals if the seller is not in compliance with such acts and rules and regulations.

Sec. 55. Whenever animals are required or designated pursuant to the Scrapie Control and Eradication Act or the rules and regulations adopted and promulgated pursuant thereto to move to a particular destination, it is unlawful to divert the animals from such destination without having first obtained permission from the department.

Sec. 56. The department may assess and collect costs for services provided and expenses incurred pursuant to its responsibilities under the Scrapie Control and Eradication Act and the rules and regulations adopted and promulgated pursuant thereto. All costs assessed and collected pursuant to this section shall be remitted to the State Treasurer for credit to the Scrapie Control Cash Fund.

Sec. 57. The Scrapie Control Cash Fund is created. The fund shall consist of money appropriated by the Legislature and gifts, grants, costs, or charges from any source, including federal, state, public, and private

sources. The fund shall be utilized for the purpose of carrying out the Scrapie Control and Eradication Act. 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. 58. (1) If funds are appropriated, the department may provide state funds for certain activities or any portion thereof in connection with the implementation of the Scrapie Control and Eradication Act to or on behalf of flock owners if funds for any activities or any portion thereof have been appropriated and are available. If funds are appropriated, the department shall develop statewide priorities for the expenditure of state funds available for scrapie control and eradication program activities.

(2) Part of such state funds may be used by the department to pay a portion of the cost of testing done by or for accredited veterinarians if such work is approved by the department. All of such testing shall be performed by or under the direct supervision of the accredited veterinarian, except that nothing in this subsection shall restrict an employee of the state or federal government in the performance of such employee's duties under the act or federal law.

(3) In administering the act and program activities pursuant thereto, the department shall not pay for (a) testing done for change of ownership at private treaty or at concentration points, (b) costs of gathering, confining, and restraining animals subjected to testing or costs of providing necessary facilities and assistance, and (c) the cost of testing to qualify or maintain flock certification.

Sec. 59. In administering the Scrapie Control and Eradication Act and conducting scrapie control and eradication program activities authorized by the act, the department shall, as far as reasonably practical, conform its program activities to the federal program requirements as provided in 9 C.F.R. parts 54 and 79.

Sec. 60. The department is not liable for actual or incidental costs incurred by any person due to departmental actions in enforcing the Scrapie Control and Eradication Act.

Sec. 61. Any person who violates the Scrapie Control and Eradication Act or any rules and regulations adopted and promulgated pursuant thereto is guilty of a Class IV misdemeanor for the first offense and a Class II misdemeanor for each subsequent offense.

Sec. 62. Section 54-2238, Reissue Revised Statutes of Nebraska, is amended to read:

54-2238. Accredited veterinarian shall mean a veterinarian approved by the Deputy Administrator of the United States Department of Agriculture in accordance with 9 C.F.R. part 161, in effect on January 1, 2002.

Sec. 63. Section 54-2244, Reissue Revised Statutes of Nebraska, is amended to read:

54-2244. Circle testing shall mean testing of a random sample of each swine herd located within one mile two miles of the affected premises if in a Stage II, III, or IV status area and within one and one-half five miles if in a Stage III V status area.

Stage Stages II, III, IV, and Stage III V status areas are established pursuant to the Part III Program Stages and Requirements of the State-Federal-Industry Program Standards for Pseudorabies Eradication as approved by the United States Department of Agriculture, Animal and Plant Health Inspection Service, Veterinary Services, in effect on July 19, 1996 January 1, 2002.

Sec. 64. Section 54-2254, Reissue Revised Statutes of Nebraska, is amended to read:

54-2254. Official test shall mean any testing procedure recognized for use in the diagnosis of pseudorabies by (1) the United States Department of Agriculture in 9 C.F.R. part 85, in effect on July 19, 1996 January 1, 2002, or (2) the department in rules and regulations adopted and promulgated pursuant to the Pseudorabies Control and Eradication Act.

Sec. 65. Section 54-2277, Reissue Revised Statutes of Nebraska, is amended to read:

54-2277. Each owner or the authorized representative of the owner of a swine herd under quarantine shall file a swine herd cleanup plan with the department within thirty seven days after the date of issuance of the quarantine. Each owner or the authorized representative of the owner of a quarantined swine herd shall follow as standards in the preparation of a swine herd cleanup plan the rules and regulations adopted and promulgated by the department based, as far as reasonably practical, upon the Herd Cleanup Plan Manual prepared by the Livestock Conservation Institute as such manual existed on January 1, 1991.

Sec. 66. Section 54-2280, Reissue Revised Statutes of Nebraska, is

amended to read:

54-2280. Cleanup testing ~~may shall~~ include testing of up to one hundred percent of the swine in an affected swine herd for the purpose of removing infected swine. ~~or it may be a random sample of the affected swine herd to determine the current level of pseudorabies within the affected swine herd.~~

Sec. 67. Section 54-2287, Reissue Revised Statutes of Nebraska, is amended to read:

54-2287. (1) The department shall continually conduct a feeder and breeding swine testing program. Under the program, the department may require testing of both feeder and breeding swine whenever such swine are moving in commerce through concentration points or whenever feeder and breeding swine are sold at private treaty.

(2) The department shall assign a status swine herd title to those swine herds which meet the requirements developed by the department for such title. Such requirements shall include (a) the method and number of swine subjected to testing, (b) the procedure for herd additions, deletions, and movement into and out of such herds, and (c) a legal description of the land on which facilities are located to maintain a qualified pseudorabies negative herd, a qualified negative gene-altered vaccinated herd, or a qualified pseudorabies negative growout herd. ~~or a quarantined status swine herd.~~

(3) The department may cancel or suspend the title of a ~~pseudorabies monitored herd, a qualified pseudorabies negative herd, a qualified negative gene-altered vaccinated herd, or a qualified pseudorabies negative growout herd~~ for failure to meet the requirements of subsection (2) of this section. The department shall not renew such titles if the approved testing schedule is not adhered to.

Sec. 68. Section 54-2289, Reissue Revised Statutes of Nebraska, is amended to read:

54-2289. For the protection of the livestock industry in Nebraska and to aid in achieving the purposes of the Pseudorabies Control and Eradication Act, the department shall regulate the sale and use of pseudorabies vaccine. The department may restrict the sale and use of pseudorabies vaccine and when deemed appropriate by the department may require the use of pseudorabies vaccine. The department shall require detailed record keeping and reporting by persons involved in the sale or use, or both, of such vaccine.

Sec. 69. Section 54-2290, Reissue Revised Statutes of Nebraska, is amended to read:

54-2290. The department shall adopt and promulgate rules and regulations to aid in implementing the Pseudorabies Control and Eradication Act. The rules and regulations may include, but shall not be limited to, provisions governing:

(1) The conduct of the feeder and breeding swine testing program, including provisions governing: (a) When, where, how, by whom, and how often testing is to be done; (b) what swine are to be subjected to testing; (c) how and by whom results of testing are to be recorded; (d) by whom and to whom the results of the testing are to be reported; and (e) how, by whom, and for what purposes such results will be utilized;

(2) The conduct of the pseudorabies control and eradication program, including provisions governing: (a) When, where, how, by whom, and how often testing is to be done; (b) what swine are to be subjected to testing; (c) requirements of swine herd cleanup plans, including form, execution, contents, duration, amendments, and enforcement; (d) how and by whom results of testing are to be recorded; (e) by whom and to whom the results of the testing are to be reported; (f) how, by whom, and for what purposes such results will be utilized; and (g) assignment of and requirements for titles for status swine herds and the suspension, expiration, and cancellation of such titles;

(3) The conduct of surveillance in swine herds and at slaughter establishments and concentration points, including provisions governing: (a) When, where, how, by whom, and how often testing is to be done; (b) what swine and swine herds are to be subjected to testing; (c) how and by whom results of testing are to be recorded and reported; and (d) the use of the results of testing by the department;

(4) Importation of swine, including provisions governing: (a) Age, origin, entry, movement, and destination in the state; (b) when, where, how, by whom, and how often imported swine are to be subjected to testing; (c) what imported swine are to be subjected to testing; and (d) how testing results are to be recorded, reported, and utilized;

(5)(a) What constitutes a program area; (b) what epidemiological factors will be considered in determining the program area; and (c) when and for what purpose a program activity will be selected;

(6) The issuance and release of quarantines and the requirements regarding the handling, movement, and disposition of livestock under quarantine;

(7) The cleaning and disinfecting of affected premises, including provisions governing: (a) The materials to be used; (b) the procedures to be used; and (c) when such procedures are to be performed;

(8) The testing of livestock to detect pseudorabies, including provisions governing: (a) Which tests are to be deemed official tests; (b) by whom the testing is to be administered; (c) how the testing is to be conducted; (d) the reaction tolerances to be recognized; and (e) the classification of results as to negative, suspect, or positive. These rules and regulations shall be consistent with the best available scientific information relative to the control and eradication of pseudorabies;

(9) The pseudorabies vaccination program, including provisions governing: (a) The vaccines to be used; (b) the age of the swine to be vaccinated; (c) the effect of vaccination on the interpretation of test results; and (d) the reported sale and use of vaccine;

(10) The identification of swine subject to the act, including provisions governing: (a) Exposed and infected swine; (b) vaccinated swine; and (c) swine to be tested;

(11) Classification of concentration points, including provisions governing: (a) Use and time of use of common areas by swine from (i) a swine herd under quarantine, (ii) swine from a status swine herd, and (iii) swine from a herd which is not a status swine herd; (b) the degree of separation of the swine described in subdivisions (a)(i) through (iii) of this subdivision; and (c) purposes for which swine exit the concentration point;

(12) Criteria and restrictions for approved breeding facilities, approved feeding facilities, and restricted premises, including provisions governing: (a) Epidemiological investigation of the swine herd; (b) adjoining land characteristics; (c) proximity of other livestock; (d) benefit of approved breeding facilities to the state; and (e) other factors which make approved breeding facilities, approved feeding facilities, or restricted premises detrimental to the livestock industry of the state;

(13) (11) Random sampling of swine herds, including provisions governing: (a) When, where, how, by whom, and how often a random sample is to be used in testing swine herds; (b) when and for what purpose a random sample of a swine herd will be subjected to testing; (c) the number of feeder, breeding, and other swine in a particular status swine herd or in a swine herd which is not a status swine herd constituting a random sample to be subjected to testing; (d) the age of swine in a status swine herd and a swine herd which is not a status swine herd to be used as a random sample and subjected to testing; and (e) how testing results are to be recorded, reported, and utilized;

(14) (12) Compliance with Part III Program Stages and Requirements of the State-Federal-Industry Program Standards for Pseudorabies Eradication as approved by the United States Department of Agriculture, Animal and Plant Health Inspection Service, Veterinary Services, in effect on July 19, 1996 January 1, 2002;

(15) (13) Compliance with 9 C.F.R. part 85, in effect on July 19, 1996 January 1, 2002, for pseudorabies control and eradication;

(16) (14) Administration of the pseudorabies control and eradication program subject to the availability of state funds;

(17) (15) The assessment and collection of costs for services provided and expenses, not to exceed actual costs, incurred under the act;

(18) (16) The preparation, maintenance, handling, filing, and disposition of records and reports by persons subject to the act concerning the vaccination, testing, or movement of swine;

(19) (17) Program activities and cleanup testing under the act on which state funds, if appropriated and available, shall be used by the department and limitations on use of such state funds for testing and other activities under the act; and

(20) (18) Any other areas deemed necessary by the department to effectively control and eradicate pseudorabies.

Sec. 70. Section 54-2296, Reissue Revised Statutes of Nebraska, is amended to read:

54-2296. (1) When testing is to be performed pursuant to the Pseudorabies Control and Eradication Act, the owner of the swine shall be responsible for gathering, confining, and restraining such swine for testing and for providing the necessary facilities and assistance.

(2) The department may provide state funds for certain activities or any portion thereof in connection with the implementation of the act to or on behalf of swine herd owners if funds for such activities or any portion

thereof have been appropriated and are available. The department shall develop statewide priorities for the expenditure of state funds available for program activities.

(3) Part of such state funds may be used by the department to pay a portion of the cost of testing done by or for accredited veterinarians if such work is approved by the department. All of such testing shall be performed by or under the direct supervision of the accredited veterinarian, except that nothing in this subsection shall restrict an employee of the state or federal government in the performance of such employee's duties under the act or federal law.

(4) In administering the act and programs pursuant thereto, the department shall not pay for (a) testing done for change of ownership at private treaty or at concentration points, (b) costs of gathering, confining, and restraining swine subjected to testing or costs of providing necessary facilities and assistance, and (c) the cost of vaccine, and (d) the cost of testing to qualify or maintain a status swine herd.

Sec. 71. Section 54-2299, Reissue Revised Statutes of Nebraska, is amended to read:

54-2299. In administering the Pseudorabies Control and Eradication Act and conducting program activities authorized by the act, the department shall as far as reasonably practical conform its program activities to Part III Program Stages and Requirements of the State-Federal-Industry Program Standards for Pseudorabies Eradication as approved by the United States Department of Agriculture, Animal and Plant Health Inspection Service, Veterinary Services, in effect on July 19, 1996 January 1, 2002.

Sec. 72. Sections 1 to 61 of this act become operative on January 1, 2004. The other sections of this act become operative on their effective date.

Sec. 73. Original sections 54-2238, 54-2244, 54-2254, 54-2277, 54-2280, 54-2287, 54-2289, 54-2290, 54-2296, and 54-2299, Reissue Revised Statutes of Nebraska, are repealed.

Sec. 74. The following sections are outright repealed: Sections 54-2261, 54-2282, 54-2284, and 54-2285, Reissue Revised Statutes of Nebraska.

Sec. 75. Since an emergency exists, this act takes effect when passed and approved according to law.