

LEGISLATIVE BILL 160

Approved by the Governor May 13, 2003

Introduced by Kremer, 34

AN ACT relating to agriculture; to amend sections 54-785 to 54-788, 54-790, 54-791, 54-796, 54-1403, 54-1509, 54-1517, 54-1902, 54-1906, and 54-1914, Reissue Revised Statutes of Nebraska, and section 54-1182, Revised Statutes Supplement, 2002; to change provisions relating to livestock health certificates, animal importation, and meat and poultry inspection; to define and redefine terms; and to repeal the original sections.

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

Section 1. Section 54-785, Reissue Revised Statutes of Nebraska, is amended to read:

54-785. The purpose of the Animal Importation Act shall be to protect the health of animals in Nebraska by regulating or prohibiting certain activities relating to the importation of animals into Nebraska. Such regulations and prohibitions are ~~which~~ controls which are essential to the prevention of the transference into this state of dangerous, infectious, contagious, or otherwise transmissible diseases among animals. The methods provided for in the act are in accordance with the purpose and intent of sections 54-701 to 54-705.

Sec. 2. Section 54-786, Reissue Revised Statutes of Nebraska, is amended to read:

54-786. For purposes of the Animal Importation Act, unless the context otherwise requires:

(1) Animal ~~shall mean any animal, including poultry, other than man, but shall exclude fish and reptiles~~ means all vertebrate members of the animal kingdom, except humans, fish, amphibians, and reptiles; and

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

Sec. 3. Section 54-787, Reissue Revised Statutes of Nebraska, is amended to read:

54-787. It shall be unlawful for any person to bring, cause to be brought, or aid in bringing into this state any animal which he or she knows to be infected with, exposed to, or suspected of having been exposed to any dangerous, infectious, contagious, or otherwise transmissible disease, or which he or she knows has originated in a quarantined area, herd, or flock, except by permit issued by the bureau.

Sec. 4. Section 54-788, Reissue Revised Statutes of Nebraska, is amended to read:

54-788. (1) All Except as otherwise provided in this section, all animals brought into this state, ~~except (a) animals~~ shall be accompanied by a certificate of veterinary inspection. The certificate of veterinary inspection shall state on its face the destination of the animal and shall meet the requirements for issuance, approval, content, and filing prescribed by the Department of Agriculture through rules and regulations. The following animals are not required to be accompanied by a certificate of veterinary inspection: (a) Animals brought directly to a federally inspected recognized slaughter establishment; ~~(b) cattle brought from the farm or ranch of origin directly to an establishment approved under 9 C.F.R. part 78, (c) feeding or breeding swine brought directly from the farm of farrowing to any establishment approved under 9 C.F.R. part 76, (d) slaughter swine, excluding garbage-fed swine, brought to any establishment approved under 9 C.F.R. part 76, and (e) cattle, swine, horses, sheep, and goats brought from the farm or ranch of origin directly to an establishment approved under 9 C.F.R. part 71, 75, 78, 79, or 85; (c) poultry under eight weeks of age accompanied by a VS Form 9-3, "Report of Sales of Hatching Eggs, Chicks, and Poults", and classified prior to movement into Nebraska as pullorum and typhoid clean or equivalent status pursuant to the rules and regulations officially promulgated by the United States Department of Agriculture commonly known and cited as 9 C.F.R. 145, the National Poultry Improvement Plan; and (d) animals moving directly to a veterinary clinic for diagnosis, treatment, or health examination. ~~shall be accompanied by a health certificate which states thereon the destination of such animals, which health certificate shall also meet the requirements for issuance, approval, content, and filing as prescribed by the Department of Agriculture through rules and regulations.~~~~

(2) The bureau may require through rules and regulations that a

prior entry permit be obtained for animals if the bureau deems such a permit necessary for the protection of the health of domestic animals in the state. If the bureau determines that a prior entry permit is required, the person importing or transporting the animals into the state shall obtain such a permit from the bureau.

Sec. 5. Section 54-790, Reissue Revised Statutes of Nebraska, is amended to read:

54-790. It shall be unlawful for any person to bring, cause to be brought, or aid in bringing into this state any animal which is not accompanied by a ~~health certificate as provided in~~ certificate of veterinary inspection as required by section 54-788.

Sec. 6. Section 54-791, Reissue Revised Statutes of Nebraska, is amended to read:

54-791. It shall be unlawful for any person to cause any animal to be diverted from the destination stated on the ~~health certificate~~ certificate of veterinary inspection as required by section 54-788 except by permit issued by the bureau.

Sec. 7. Section 54-796, Reissue Revised Statutes of Nebraska, is amended to read:

54-796. (1) The Department of Agriculture may apply for a restraining order or a temporary, permanent, or mandatory injunction against any person violating or threatening to violate the Animal Importation Act or the rules and regulations adopted and promulgated thereunder in order to insure compliance with 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) It shall be the duty of the Attorney General or the county attorney of the county in which violations of the act are occurring or are about to occur, when notified of such violations or threatened violations by the department, to cause appropriate proceedings under subsection (1) of this section to be instituted and pursued in the district court without delay. It shall also be the duty of the Attorney General or county attorney of the county in which violation of the act occurred to prosecute violations under subsection (3) of this section without delay.

(3) Any person violating the provisions of the act or the rules and regulations adopted and promulgated pursuant to the act shall be guilty of a Class III misdemeanor for the first offense and a Class II misdemeanor for each subsequent offense.

Sec. 8. Section 54-1182, Revised Statutes Supplement, 2002, is amended to read:

54-1182. Any livestock sold or disposed of at a livestock auction market, before removal therefrom, shall be released by the designated veterinarian 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, the designated veterinarian shall furnish each owner with a ~~certificate~~ documentation 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 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. 9. Section 54-1403, Reissue Revised Statutes of Nebraska, is amended to read:

54-1403. Sheep directed for slaughter in Nebraska ~~must~~ shall not be diverted en route. Sheep for feeding, breeding, and exhibition purposes from scabies-certified-free states ~~must~~ shall be accompanied by a ~~health certificate~~ certificate of veterinary inspection meeting the requirements of section 54-788, issued by an accredited veterinarian, certifying that they are apparently free from disease. Sheep for feeding, breeding, and exhibition purposes from states designated as scabies eradication areas or from states where scabies exists and which are not designated as scabies eradication areas ~~must~~ shall be dipped once in a permitted dip maintained at a required strength under the supervision of a state or federal inspector in accordance with the directions issued by the Department of Agriculture, Bureau of Animal Industry within ten days from their entry into Nebraska. Sheep from a scabies eradication area ~~must~~ shall be accompanied by a permit, and the number of the permit ~~must~~ shall be recorded on the ~~health certificate~~ certificate of veterinary inspection which ~~must~~ shall accompany the shipment.

Sec. 10. Section 54-1509, Reissue Revised Statutes of Nebraska, is amended to read:

54-1509. Any person, partnership, limited liability company,

association, or corporation, or officer or member thereof, who (1) interferes with the destruction of swine mandated under sections 54-1501 to 54-1512, (2) violates a quarantine or disinfection order issued under such sections, (3) imports swine into this state without first obtaining a health certificate certificate of veterinary inspection meeting the requirements of section 54-788 ~~from a licensed and accredited veterinarian~~ and the required shipping permit from the Bureau of Animal Industry, or (4) after obtaining a health certificate certificate of veterinary inspection and shipping permit, diverts a shipment from the point of destination stated upon the health certificate certificate of veterinary inspection and shipping permit without written permission from the Bureau of Animal Industry shall be guilty of a Class IV felony.

Sec. 11. Section 54-1517, Reissue Revised Statutes of Nebraska, is amended to read:

54-1517. ~~After September 1, 1969, the~~ The importation into this state of any swine which have been inoculated less than ninety days with any killed inactivated hog cholera vaccine, modified live virus hog cholera vaccine, or virulent hog cholera virus is expressly prohibited. All swine ~~must~~ shall comply with entry requirements of the Department of Agriculture and shall be accompanied by a valid health certificate certificate of veterinary inspection meeting the requirements of section 54-788. ~~from a licensed veterinarian in the state of origin.~~

Sec. 12. Section 54-1902, Reissue Revised Statutes of Nebraska, is amended to read:

54-1902. For purposes of the Nebraska Meat and Poultry Inspection Law, unless the context otherwise requires:

- (1) Director shall mean the Director of Agriculture;
- (2) Department shall mean the Department of Agriculture;
- (3) Person shall include individuals, partnerships, limited liability companies, corporations, and associations and any officer, agent, partner, limited liability company member, or employee thereof;
- (4) Hydrolyzed whole poultry shall mean the animal feed product resulting from the hydrolyzation of whole carcasses of culled or dead, undecomposed poultry as such product is defined in the Official Publication of the Association of American Feed Control Officials;
- (5) Intrastate commerce shall mean commerce within this state;
- ~~(5)~~ (6) Livestock shall mean any cattle, sheep, swine, goats, horses, mules, other equines, and other mammalian species as the director may determine, either living or dead;
- ~~(6)~~ (7) Livestock product shall mean any carcass, part thereof, meat, or meat food product of any livestock;
- ~~(7)~~ (8) Meat food product shall mean any product capable of use as human food which is made wholly or in part from any meat or other portion of the carcass of any cattle, sheep, swine, or goats, except products which contain meat or other portions of such carcasses only in a relatively small proportion or historically have not been considered by consumers as products of the meat food industry and which are exempt from definition as a meat food product by the director under such conditions as he or she may prescribe to assure that the meat or other portions of such carcass contained in such product are not adulterated and that such products are not represented as meat food products. This term as applied to food products of equines or other mammalian species as designated by the director shall have a meaning comparable to that provided in this subdivision with respect to cattle, sheep, swine, and goats;
- (9) Mobile or remote processing unit shall mean any equipment for processing whole poultry by grinding, chopping, or other comparable method that is, or is intended to be, transported to or permanently located at locations away from a rendering establishment for purposes of collecting poultry carcasses processed for transport to a rendering establishment in liquid suspension;
- ~~(8)~~ (10) Poultry shall mean any domesticated bird or other avian species as the director may designate, either living or dead;
- ~~(9)~~ (11) Poultry product shall mean any poultry carcass or part thereof or any product which is made wholly or in part from any poultry carcass or part thereof, except products which contain poultry ingredients only in a relatively small proportion or historically have not been considered by consumers as products of the poultry food industry and which are exempt by the director from definition as a poultry product under such conditions as he or she may prescribe to assure that the poultry ingredients in such products are not adulterated and that such products are not represented as poultry products;
- ~~(10)~~ (12) Capable of use as human food shall apply to any wholesome

livestock or poultry carcass or part or product of any such carcass, unless it is denatured or otherwise identified as required by regulations prescribed by the director to preclude its use as human food or it is naturally inedible by humans;

~~(11)~~ (13) Prepared shall mean slaughtered, canned, salted, stuffed, rendered, boned, cut up, frozen, or otherwise manufactured or processed in any manner;

~~(12)~~ (14) Adulterated shall apply to any livestock product or poultry product under one or more of the following circumstances:

(a) If it fails to conform to the requirements established by the Nebraska Pure Food Act;

(b) If it has been subjected to radiation, unless the use of the radiation was in conformity with a regulation or exemption in effect pursuant to section 409 of the Federal Food, Drug and Cosmetic Act approved June 25, 1938, (52 Stat. 1040) and acts amendatory thereof or supplementary thereto; or

(c) If it is margarine containing animal fat and any of the raw material used therein consists in whole or in part of any filthy, putrid, or decomposed substance;

~~(13)~~ (15) Misbranded shall apply to any livestock product or poultry product under one or more of the following circumstances:

(a) If it fails to conform to the requirements established by the Nebraska Pure Food Act; or

(b) If it fails to bear directly thereon and on its containers, as the director may by regulation prescribe, the official inspection legend and establishment number of the establishment where the product was prepared and, unrestricted by any of the foregoing, such other information as the director may require in such regulations to assure that it will not have false or misleading labeling and that the public will be informed of the manner of handling required to maintain the article in a wholesome condition. Exemptions as to livestock products not in containers may be established by regulations prescribed by the director and exemptions as to small packages may be established for livestock products or poultry products in the same manner;

~~(14)~~ (16) Label shall mean a display of written, printed, or graphic matter upon any article or the immediate container, not including package liners, of any article;

~~(15)~~ (17) Labeling shall mean all labels and other written, printed, or graphic matter (a) upon any article or any of its containers or wrappers or (b) accompanying such article;

~~(16)~~ (18) Container or package shall mean any box, can, tin, cloth, plastic, or other receptacle, wrapper, or cover;

~~(17)~~ (19) Shipping container shall mean any container used or intended for use in packaging the product packed in an immediate container;

~~(18)~~ (20) Immediate container shall mean any consumer package or any other container in which livestock products or poultry products which are not consumer-packaged are packed;

~~(19)~~ (21) Federal Meat Inspection Act shall mean the act so entitled approved March 4, 1907, (34 Stat. 1260) as amended by the Wholesome Meat Act (81 Stat. 584), federal Poultry Products Inspection Act shall mean the act so entitled approved August 28, 1957, (71 Stat. 441) as amended by the Wholesome Poultry Products Act (82 Stat. 791), and federal acts shall mean the Federal Meat Inspection Act and the federal Poultry Products Inspection Act;

~~(20)~~ (22) Pesticide chemical, food additive, color additive, and raw agricultural commodity shall have the same meanings for purposes of the Nebraska Meat and Poultry Inspection Law as under the Federal Food, Drug and Cosmetic Act approved June 25, 1938, (52 Stat. 1040);

~~(21)~~ (23) Official mark shall mean the official inspection legend or any other symbol prescribed by regulations of the director to identify the status of any article, livestock, or poultry under the Nebraska Meat and Poultry Inspection Law;

~~(22)~~ (24) Official inspection legend shall mean any symbol prescribed by regulations of the director showing that an article was inspected and passed in accordance with the Nebraska Meat and Poultry Inspection Law;

~~(23)~~ (25) Official certificate shall mean any certificate prescribed by regulations of the director for issuance by an inspector or other person performing official functions under the Nebraska Meat and Poultry Inspection Law;

~~(24)~~ (26) Official device shall mean any device prescribed or authorized by the director for use in applying any official mark;

~~(25)~~ (27) Establishment shall mean any building or structure in which slaughtering, butchering, meat canning, meat packing, meat manufacturing, poultry canning, poultry packing, poultry manufacturing, pet

feed manufacturing, or rendering is carried on, ~~except where such operations are under federal inspection,~~ and the ground upon which such building or structure is erected and so much ground adjacent thereto as is used in carrying on the business of such establishment, including drains, gutters, and cesspools used in connection with the establishment and any place, including where a mobile or remote processing unit is located, or vehicle where livestock, poultry, livestock products, poultry products, meat food products, or poultry food products are prepared, manufactured, stored, sold, offered for sale, or exposed for sale. Establishment does not include operations under federal inspection;

~~(26)~~ (28) Rendering shall mean the business of processing livestock or poultry or carcasses or parts thereof not intended or capable for use as human food, including the processing of poultry carcasses into hydrolyzed whole poultry feed products;

~~(27)~~ (29) Pet feed manufacturing shall mean the business of processing livestock or poultry or carcasses or parts thereof into small animal feed;

~~(28)~~ (30) Official establishment shall mean any establishment as determined by the director at which ante mortem and post mortem inspection of livestock or poultry or the inspection of the manufacturing of livestock products or poultry products for human consumption is maintained under the authority of the Nebraska Meat and Poultry Inspection Law;

~~(29)~~ (31) Inspector shall mean an employee or official or agent of the State of Nebraska authorized by the director, or any employee or official of the federal government or any governmental subdivision of this state authorized by the director, to perform any inspection functions under the Nebraska Meat and Poultry Inspection Law under an agreement between the director and any governmental subdivision or other governmental agency;

~~(30)~~ (32) License shall mean a license issued under the Nebraska Meat and Poultry Inspection Law by the director;

~~(31)~~ (33) Licensed establishment shall mean any of the establishments as defined in this section which are licensed under the terms of the Nebraska Meat and Poultry Inspection Law or pursuant to the terms of any other act administered by the director; and

~~(32)~~ (34) Reinspection shall include inspection of the preparation of livestock products and poultry products, as well as reexamination of articles previously inspected.

Sec. 13. Section 54-1906, Reissue Revised Statutes of Nebraska, is amended to read:

54-1906. The director shall promulgate and enforce such rules and regulations as are necessary to the proper administration and enforcement of the provisions of ~~sections 54-1901 to 54-1915~~ the Nebraska Meat and Poultry Inspection Law. Such rules and regulations shall require:

(1) Ante mortem and post mortem inspection, quarantine, segregation, sanitation standards and reinspections with respect to the slaughter of livestock and poultry and the preparation of livestock products and poultry products at all establishments licensed in this state, except those exempted by subdivision (9) of section 54-1908, rendering establishments and pet feed manufacturing establishments;

(2) The identification of livestock and poultry for inspection purposes and the marking and labeling of livestock products or poultry products or their containers, or both, to clearly identify the products as inspected and passed if inspected and passed, or not for sale if not inspected, or condemned if they are found upon inspection to be adulterated. Condemned products shall be decharacterized or denatured or destroyed and shall not be sold or offered for sale as human food;

(3) Prohibition of entry into official establishments of livestock products and poultry products not prepared under federal inspection, or inspection pursuant to ~~sections 54-1901 to 54-1915~~ the Nebraska Meat and Poultry Inspection Law, and further limit the entry of such articles and other materials into such establishments under such conditions as he or she deems necessary to effectuate the purposes of ~~sections 54-1901 to 54-1915~~ the Nebraska Meat and Poultry Inspection Law;

(4) That when a livestock product, meat food product, poultry product, or poultry food product leaves an official establishment it shall conform to the requirements of the Nebraska Pure Food Act;

(5) Prior approval of all labeling and containers to be used for such products when sold or transported in intrastate commerce to assure that they comply with the requirements of the Nebraska Pure Food Act;

(6) That necessary facilities, equipment, identification practices, sanitary standards, inspections of materials and ingredients be used in the preparation of products at a rendering establishment or a pet feed

establishment for the protection of the health and welfare of the citizens of this state and their pets, livestock, and poultry. Inspections as described in this subdivision shall be at the expense of the establishment operator receiving the service;

(7) That the conveyance or conveyances used by pet feed manufacturers, renderers, and motor carriers are so constructed as to be leak proof, insect tight, readily cleaned, and disinfected and kept in a sanitary condition; and

(8) That any mobile or remote processing unit used by renderers be kept in sanitary condition, transported, and utilized in a manner as determined prudent by the department to minimize the risk of the spread of disease;

(9) That the products of hydrolyzed whole poultry processing be processed in such a manner as to be suitable for animal food, including heating by boiling at two hundred twelve degrees Fahrenheit at sea level for thirty minutes, dry extrusion at a minimum temperature of two hundred eighty-four degrees Fahrenheit for thirty seconds with a pressure differential of approximately forty atmospheres as the product exits the extruder, or their equivalents as approved by the department unless it is shown to the satisfaction of the department that heating is not required to render the product suitable for animal food; and

(10) Inspection of all operations traditionally and usually conducted at retail stores where meat, meat food products, poultry, and poultry food products are sold, consumed, held for sale or offered for sale, and in connection therewith, to cause such operations to be inspected to protect the consuming public from meat, poultry, meat food products, and poultry food products which may be adulterated or misbranded by seizure or embargo of such products pursuant to the terms of section 54-1912.

Sec. 14. Section 54-1914, Reissue Revised Statutes of Nebraska, is amended to read:

54-1914. The director shall have the following additional powers:

(1) Whenever he or she has reason to believe that any licensee may be in possession of information relevant to an investigation by him or her of suspected violations of the provisions of ~~sections 54-1901 to 54-1915~~ the Nebraska Meat and Poultry Inspection Law or regulations promulgated thereunder, the director may require such person to file with him or her in such form as he or she may prescribe special reports or answers in writing to specific questions, furnishing such information. Such reports and answers shall be made under oath and shall be filed with the director within such reasonable period as the director may prescribe, unless additional time is granted in any case upon prompt application for same.

(2) To have access to all establishments, including any premises where a mobile or remote processing unit is located or utilized, for the purposes of examination or inspection or both at all times and the right to copy any documentary evidence of any person being investigated or proceeded against, and may require by subpoena the attendance and testimony of witnesses and the production of all documentary evidence of any person or the taking of a deposition relating to any matter under his or her investigation. The director may sign subpoenas and may administer oaths and affirmations, examine witnesses, and receive evidence in accordance with the provisions of section 54-1905. In case of disobedience to a subpoena, the director may invoke the aid of the district court of Lancaster County in requiring the attendance and testimony of witnesses and the production of documentary evidence. If any person fails to obey an order of the court, he or she may be punished by the court as for contempt thereof. Witnesses summoned or required to give depositions shall be paid the same fees that are paid witnesses in the district courts of this state and mileage at the same rate provided in section 81-1176 for state employees.

No person shall be excused from attending and testifying or from producing books, papers, schedules of charges, contracts, agreements, or other documentary evidence before the director or in obedience to the subpoena of the director, whether such subpoena be signed or issued by the director or his or her delegate, or in any cause or proceeding, criminal or otherwise, based upon or growing out of any alleged violation of ~~sections 54-1901 to 54-1915~~ the Nebraska Meat and Poultry Inspection Law, or of any amendments thereto, on the ground or for the reason that the testimony or evidence, documentary or otherwise, required of him or her may tend to incriminate him or her or subject him or her to a penalty or forfeiture; but no individual shall be prosecuted or subjected to a penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he or she is compelled, after having claimed his or her privilege against self-incrimination, to testify or produce evidence, documentary or otherwise, except that any individual so

testifying shall not be exempt from prosecution and punishment for perjury committed in so testifying.

Sec. 15. Original sections 54-785 to 54-788, 54-790, 54-791, 54-796, 54-1403, 54-1509, 54-1517, 54-1902, 54-1906, and 54-1914, Reissue Revised Statutes of Nebraska, and section 54-1182, Revised Statutes Supplement, 2002, are repealed.