

LEGISLATIVE BILL 441

Approved by the Governor March 22, 2005

Introduced by Kremer, 34

AN ACT relating to agriculture; to amend sections 54-199 and 54-1,108, Reissue Revised Statutes of Nebraska; to change provisions relating to livestock brands; to change the livestock brand inspection fee; to repeal the original sections; and to declare an emergency.

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

Section 1. Section 54-199, Reissue Revised Statutes of Nebraska, 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 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 receipt of 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 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 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. 2. Section 54-1,108, Reissue Revised Statutes of Nebraska, 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 fee, established by the Nebraska Brand Committee, of not more than ~~sixty-five~~ seventy-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. 3. Original sections 54-199 and 54-1,108, Reissue Revised Statutes of Nebraska, are repealed.

Sec. 4. Since an emergency exists, this act takes effect when passed and approved according to law.