

1 State of Arkansas
2 90th General Assembly
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4

A Bill

HOUSE BILL 1960

5 By: Representative Ratliff
6

For An Act To Be Entitled

8 AN ACT CONCERNING THE BRANDING AND MARKING OF
9 LIVESTOCK; TO ELIMINATE THE DIVISION OF BRAND
10 REGISTRY OF THE ARKANSAS LIVESTOCK AND POULTRY
11 COMMISSION; TO ALLOW THE ARKANSAS LIVESTOCK AND
12 POULTRY COMMISSION TO CONTRACT WITH A PRIVATE ENTITY
13 TO ADMINISTER THE REQUIREMENTS FOR BRANDING AND
14 MARKING LIVESTOCK; AND FOR OTHER PURPOSES.
15

Subtitle

16
17
18 TO REGULATE THE BRANDING AND MARKING OF
19 LIVESTOCK; AND TO ALLOW THE ARKANSAS
20 LIVESTOCK AND POULTRY COMMISSION TO
21 CONTRACT WITH A PRIVATE ENTITY TO
22 ADMINISTER THE REQUIREMENTS FOR BRANDING
23 AND MARKING LIVESTOCK.
24

25
26 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
27

28 SECTION 1. Arkansas Code § 2-34-106 is amended to read as follows:

29 2-34-106. Disputes about earmarks or brands - Impounding of funds.

30 (a) If any a dispute shall arise arises about any an earmark or brand,
31 it shall be decided by reference to the book of marks and brands kept by the
32 clerk of the county court.

33 (b)(1) A state-certified law enforcement officer or a livestock
34 association in the state that is authorized to perform brand inspection
35 services under 9 C.F.R. 201.86, as it existed on January 1, 2015, may order
36 funds of an animal of questionable ownership held until ownership is



1 established.

2 (2)(A) If ownership of the animal is not established within
 3 thirty (30) days, the funds shall be sent to the Arkansas Livestock and
 4 Poultry Commission to be held for one (1) year from the date of receipt by
 5 the commission.

6 (B) If ownership of the animal cannot be ascertained
 7 during the one-year period stated in subdivision (b)(2)(A) of this section,
 8 then after the expiration of the one-year period, the funds shall be
 9 deposited into the Livestock and Poultry Fund Account.

10
 11 SECTION 2. Arkansas Code Title 2, Chapter 34, Subchapter 1, is amended
 12 to add an additional section to read as follows:

13 2-34-107. Branding or misbranding with intent to defraud.

14 (a) As used in this section, "domestic animal" means cattle, horses,
 15 sheep, goats, and hogs.

16 (b) A person who does the following upon conviction is guilty of a
 17 Class C felony:

18 (1) Purposely brands, misbrands, marks, or mismarks a domestic
 19 animal with an intent to defraud; or

20 (2) Purposely brands over a previous brand or cuts out or
 21 obliterates a previous mark or brand on a domestic animal with an intent to
 22 defraud.

23
 24 SECTION 3. Arkansas Code Title 2, Chapter 34, Subchapter 2 is amended
 25 to read as follows:

26 Subchapter 2 – ~~Division of~~ Brand Registry

27
 28 2-34-201. Definitions.

29 As used in this subchapter:

30 (1) "Brand" means a permanent identification burned or frozen
 31 into the hide of a live animal with a hot iron or hot or frozen chemical in
 32 letters, numbers, or figures, each of which is at least three inches (3") in
 33 overall length or diameter and is to be considered in relation to its
 34 location on the animal; and

35 ~~(2) "Commission" means the Arkansas Livestock and Poultry~~
 36 ~~Commission;~~

1 ~~(3) “Director” means that person employed by the Arkansas~~
 2 ~~Livestock and Poultry Commission to administer the provisions of this~~
 3 ~~subchapter;~~

4 ~~(4) “Division” means the Division of Brand Registry; and~~

5 ~~(5) (2) “Livestock” and “animal” mean any cattle, horse, or~~
 6 mule.

7
 8 2-34-202. Penalty.

9 (a) ~~Any~~ A person who knowingly places ~~any~~ a brand ~~upon any livestock~~
 10 that has not been registered with the ~~Division of Brand Registry~~ Arkansas
 11 Livestock and Poultry Commission upon livestock or that duplicates a brand
 12 that is registered with the ~~division~~ commission shall be guilty of a Class A
 13 misdemeanor.

14 (b) Duplication ~~shall constitute~~ constitutes the use of a similar
 15 brand used in any position on the animal designated for use of a registered
 16 brand such as the head, neck, shoulder, rib, hip, or breeching.

17
 18 2-34-203. ~~Creation~~ Conflicts of brands.

19 ~~(a)(1) There is created in the Arkansas Livestock and Poultry~~
 20 ~~Commission a Division of Brand Registry which shall consist of a director and~~
 21 ~~such other personnel as may be necessary to carry out the provisions of this~~
 22 ~~subchapter.~~

23 ~~(2) The Director of the Division of Brand Registry in the~~
 24 ~~Arkansas Livestock and Poultry Commission shall be employed by the~~
 25 ~~commission.~~

26 ~~(b) The~~ commission Arkansas Livestock and Poultry Commission shall
 27 serve as an adjusting committee in the matter of determining conflicts of
 28 brands, and the decision of the committee shall be final.

29
 30 2-34-204. ~~Rules and regulations~~.

31 ~~The Director of the Division of Brand Registry in~~ Executive Director of
 32 the Arkansas Livestock and Poultry Commission ~~shall have the authority to~~ may
 33 prescribe all rules ~~and regulations he or she shall deem~~ necessary to carry
 34 out ~~the provisions of~~ this subchapter.

35
 36 2-34-205. Custody of county brand records.

1 (a) All county brand records of the various counties of the state
 2 shall be property of the ~~Division of Brand Registry in the~~ Arkansas Livestock
 3 and Poultry Commission, and it shall be unlawful for ~~any~~ a county clerk to
 4 accept ~~any~~ a brand for registry.

5 (b) The ~~division~~ commission shall collect all county brand record
 6 books and place them in its office and preserve them as public records.

7 (c) The ~~division~~ commission shall furnish a record of any brand record
 8 in the county record books to any person for a fee of one dollar (\$1.00) per
 9 brand.

10
 11 2-34-206. State Brand Book.

12 (a) The Executive Director of the ~~Division of Brand Registry in the~~
 13 Arkansas Livestock and Poultry Commission shall publish the State Brand Book,
 14 which shall contain a facsimile of each ~~and every~~ brand and mark that is
 15 registered with the ~~Division of Brand Registry in the~~ Arkansas Livestock and
 16 Poultry Commission showing the name and address of the owner, together with
 17 the pertinent laws, and rules, ~~and regulations~~ pertaining to registration and
 18 reregistration of brands and marks.

19 (b) The executive director, on or before January 1, 1960, and every
 20 five (5) years thereafter, ~~will have published~~ shall publish the State Brand
 21 Book showing all the brands recorded with the ~~division prior to~~ commission
 22 before December 1, 1959, and every five (5) years thereafter.

23 (c) Supplements to the State Brand Book shall be published ~~every three~~
 24 ~~(3) months~~ annually.

25
 26 2-34-207. Notification to registrants.

27 ~~Prior to~~ Before publication of ~~any~~ a revised State Brand Book, ~~all~~ each
 28 registered brand ~~owners and assignees~~ owner or assignee in the previous book
 29 or supplements ~~thereto~~ shall be notified in writing that ~~their~~ his or her
 30 brand has terminated and that the brand must be renewed if the person desires
 31 to keep the brand.

32
 33 2-34-208. Registration of brands.

34 (a) ~~Every~~ A person desiring to adopt a brand, or to continue to use a
 35 brand, shall ~~make application~~ apply to the ~~Division of Brand Registry in the~~
 36 Arkansas Livestock and Poultry Commission for the registration of the brand

1 in the manner prescribed in this section.

2 (b) The ~~division~~ commission shall prepare a standard form, which shall
 3 be made available to those persons who desire to apply for a brand.

4 (c) ~~The applicants~~ An applicant shall show a front, rear, left, and
 5 right side view of the animals upon which the brand will be eligible for
 6 registry.

7 (d) The brand location shall be designated in the following body
 8 regions: head, right jaw, neck, shoulder, rib and right and left jaw, neck,
 9 shoulder, rib and neck, right and left hip, thigh, and breeching.

10 (e) The applicant shall select ~~not less than~~ at least three (3)
 11 distinct:

12 (1) Distinct brands and list them in the preferred order; and
 13 ~~shall likewise select three (3) locations~~

14 (2) Locations on the animal and list them in preferred order.

15 (f) Applications for registration or reregistration shall be properly
 16 signed and notarized and accompanied by a reasonable fee ~~of five dollars~~
 17 ~~(\$5.00)~~ to be determined by the executive director to offset the costs of
 18 administering this section.

19 (g) A brand, if approved and accepted by the ~~division~~ commission for
 20 registry, shall be of good standing during the five-year period in which it
 21 is recorded.

22
 23 2-34-209. Brands reserved to state.

24 (a) There is reserved to the state the brands of "B" and "T" on the
 25 left jaw of any cattle, and it ~~shall be~~ is unlawful for ~~any~~ a person to use
 26 ~~them~~ the brands of "B" and "T".

27 (b) Cattle carrying these brands shall be claimed as reactors to
 28 Brucellosis abortus, known as bangs disease, and tuberculosis, known as T.B.

29
 30 2-34-210. Sale of book.

31 (a) The State Brand Book and all supplements ~~thereto~~ to the State
 32 Brand Book, for a five-year period, shall be sold to the public for ~~ten~~
 33 ~~dollars (\$10.00)~~ a reasonable fee to be determined by the executive director
 34 to offset the costs of producing the book.

35 (b) ~~Any~~ A supplement to ~~any~~ a brand book shall be sold ~~at fifty cents~~
 36 ~~(50¢)~~ each to the public for a reasonable fee determined by the executive

1 director to offset the costs of producing the supplement.

2 (c) The county clerk and the sheriff of each county shall receive all
3 brand books and supplements without cost to their respective county.

4
5 2-34-211. Book as evidence of ownership.

6 (a) Brands appearing in the current edition of the State Brand Book or
7 supplements ~~thereto~~ to the current edition of the State Brand Book shall be
8 prima facie evidence of ownership and shall take precedence over brands of
9 like kind should the question of ownership arise.

10 (b) The owner whose brand does not appear in the State Brand Book or
11 supplement ~~thereto~~ to the State Brand Book shall produce evidence to
12 establish his or her title to the property in the event of controversy.

13
14 2-34-212. Transfers of registered brands.

15 (a)(1) Only brands appearing in the current edition of the State Brand
16 Book and the supplements ~~thereto~~ to the current edition of the State Brand
17 Book shall be subject to sale, assignment, transfer, devise, or bequest, the
18 same as other personal property.

19 (2)(A) The transfer of title ~~must~~ shall be recorded with the
20 ~~Division of Brand Registry in the~~ Arkansas Livestock and Poultry Commission.

21 (B) The fee for recording ~~it~~ a transfer of title shall be
22 ~~one dollar (\$1.00)~~ determined by the Executive Director of the Arkansas
23 Livestock and Poultry Commission based on the costs of administering this
24 section.

25 (b)(1) All persons selling livestock branded with their brand recorded
26 in a current edition of the State Brand Book or supplements ~~thereto~~ to the
27 current edition of the State Brand Book shall execute a written transfer of
28 ownership to the purchaser.

29 (2) ~~Should~~ If the purchaser ~~suffer any~~ suffers damages due to
30 seller's failure to execute a written transfer of ownership, then the seller
31 ~~shall be~~ is liable for ~~any and all~~ the damages decided upon by ~~any~~ a court of
32 competent jurisdiction.

33
34 2-34-213. Brand Registry Fund.

35 All funds collected by the ~~Division of Brand Registry in the~~ Arkansas
36 Livestock and Poultry Commission ~~pursuant to~~ or an agent of the commission

1 under this subchapter shall be deposited monthly ~~in~~ into the State Treasury
2 as special revenues, and ~~they~~ the funds shall be credited by the Treasurer of
3 State to the "Brand Registry Fund", which is established by this section, to
4 be used exclusively for the ~~maintenance and operation of the division~~
5 administration of this subchapter.

6
7 SECTION 4. Arkansas Code Title 2, Chapter 34, Subchapter 2, is amended
8 to add an additional section to read as follows:

9 2-34-214. Contracts for administration.

10 (a)(1) The Executive Director of the Arkansas Livestock and Poultry
11 Commission may enter into a contract with a private entity to administer the
12 registration and recording of marks and brands under this subchapter.

13 (2) If the executive director enters into a contract under this
14 subsection, the executive director may:

15 (A) Compensate the private entity for its services;

16 (B) Appoint the private entity as an agent of the Arkansas
17 Livestock and Poultry Commission for purposes of receiving fees allowed under
18 this subchapter; and

19 (C) Except as provided in subsection (b) of this section,
20 direct the private entity to perform duties assigned to the commission or the
21 executive director under this subchapter.

22 (b) The executive director shall not contract with a private entity to
23 promulgate rules or set fees under this subchapter.

24 (c) Records concerning the administration of this subchapter are
25 subject to the Freedom of Information Act of 1967, § 25-19-101 et seq.,
26 regardless of whether the records are in the custody or control of the
27 commission or a private entity acting as an agent of the commission under
28 this section.

29 (d) A private entity entering into a contract with the executive
30 director under this section shall:

31 (1) Make a monthly accounting to the commission of all funds
32 received by the private entity as an agency of the commission under this
33 section; and

34 (2) File with the commission a surety bond of a corporate surety
35 authorized to do business in this state in an amount determined by the
36 commission, conditioned on the faithful performance of the private entity's

1 duties and obligations as an agent of the commission under this subchapter.

2
 3 SECTION 5. Arkansas Code § 2-34-303 is amended to read as follows:
 4 2-34-303. Certificate of compliance.

5 (a) Upon entering the state, drovers shall apply to the Executive
 6 Director of the ~~Division of Brand Registry~~ Arkansas Livestock and Poultry
 7 Commission and there record their mark or brand, and, upon the oath or
 8 affirmation, of one (1) or more credible witnesses who ~~shall be~~ are citizens
 9 of the state to the effect that § 2-34-302 has been complied with, the
 10 executive director shall give them a certificate bearing the seal of the
 11 state, and attested by the executive director, ~~which must show that shows~~
 12 that the parties have complied with the requirements of this section and § 2-
 13 34-302.

14 (b) A failure to comply with this section ~~shall subject~~ subjects the
 15 parties to having their drove detained until they procure the necessary
 16 certificate.