

LEGISLATURE OF NEBRASKA
 ONE HUNDRED THIRD LEGISLATURE
 SECOND SESSION
LEGISLATIVE BILL 768

Final Reading

Introduced by Schilz, 47; Davis, 43.

Read first time January 09, 2014

Committee: Agriculture

A BILL

1 FOR AN ACT relating to agriculture; to amend sections 54-172,
 2 54-1,110, 54-1,111, 54-1,120, 54-1,122.01, and 54-415,
 3 Reissue Revised Statutes of Nebraska, section 54-1,108,
 4 Revised Statutes Cumulative Supplement, 2012, and
 5 sections 54-170 and 54-171, Revised Statutes Supplement,
 6 2013; to define and redefine terms; to provide for brand
 7 inspection service areas under the Livestock Brand Act;
 8 to provide and change fees under the act; to change
 9 terminology relating to purchasers; to change provisions
 10 relating to estrays; to provide operative dates; to
 11 repeal the original sections; and to declare an
 12 emergency.

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

1 Section 1. Section 54-170, Revised Statutes Supplement,
2 2013, is amended to read:

3 54-170 Sections 54-170 to 54-1,128 and section 4 of this
4 act shall be known and may be cited as the Livestock Brand Act.

5 Sec. 2. Section 54-171, Revised Statutes Supplement,
6 2013, is amended to read:

7 54-171 For purposes of the Livestock Brand Act, the
8 definitions found in sections 54-172 to 54-190 and section 4 of this
9 act shall be used.

10 Sec. 3. Section 54-172, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 54-172 Bill of sale means a formal instrument for the
13 conveyance or transfer of title to livestock or other goods and
14 chattels. The bill of sale shall state the ~~buyer's~~ purchaser's name
15 and address, the date of transfer, the guarantee of title, the number
16 of livestock transferred, the sex of such livestock, the brand or
17 brands, the location of the brand or brands or a statement to the
18 effect that the animal is unbranded, and the name and address of the
19 seller. The signature of the seller shall be attested by at least one
20 witness or acknowledged by a notary public or by some other officer
21 authorized by state law to take acknowledgments. For any conveyance
22 or transfer of title to cattle subject to assessment imposed pursuant
23 to the federal Beef Promotion and Research Order, 7 C.F.R. part 1260,
24 for which the purchaser is the collecting person pursuant to 7 C.F.R.
25 1260.311 for purposes of collecting and remitting such assessment,

1 the bill of sale shall include a notation of the amount the purchaser
2 collected from the seller or deducted from the sale proceeds for the
3 assessment. A properly executed bill of sale means a bill of sale
4 that is provided by the seller and received by the ~~buyer.~~ purchaser.

5 Sec. 4. Brand inspection service area means all Nebraska
6 counties and areas of Nebraska counties contiguous with the brand
7 inspection area designated by section 54-1,109.

8 Sec. 5. Section 54-1,108, Revised Statutes Cumulative
9 Supplement, 2012, is amended to read:

10 54-1,108 (1) All brand inspections provided for in the
11 Livestock Brand Act or section 54-415 shall be from sunrise to
12 sundown or during such other hours and under such conditions as the
13 Nebraska Brand Committee determines.

14 (2)(a) An inspection fee, established by the Nebraska
15 Brand Committee, of not more than seventy-five cents per head shall
16 be charged for all cattle inspected in accordance with the Livestock
17 Brand Act or section 54-415 or inspected within the brand inspection
18 area or brand inspection service area by court order or at the
19 request of any bank, credit agency, or lending institution with a
20 legal or financial interest in such cattle. Such fee may vary to
21 encourage inspection to be performed at times and locations that
22 reduce the cost of performing the inspection but shall otherwise be
23 uniform. The inspection fee for court-ordered inspections shall be
24 paid from the proceeds of the sale of such cattle if ordered by the
25 court or by either party as the court directs. For other inspections,

1 the person requesting the inspection of such cattle is responsible
2 for the inspection fee. Brand inspections requested by either a
3 purchaser or seller of cattle located within the brand inspection
4 service area shall be provided upon the same terms and charges as
5 brand inspections performed within the brand inspection area. If
6 stray cattle are identified as a result of the inspection, such
7 cattle shall be processed in the manner provided by section 54-415.

8 (b) A surcharge of not more than twenty dollars, as
9 established by the brand committee, may be charged to cover travel
10 expenses incurred by the brand inspector per inspection location when
11 performing brand inspections. The surcharge shall be collected by the
12 brand inspector and paid by the person requesting the inspection or
13 the person required by law to have the inspection.

14 (c) Fees for inspections performed outside of the brand
15 inspection area that are not provided for in subdivision (a) of this
16 subsection shall be the inspection fee established in such
17 subdivision plus a fee to cover the actual expense of performing the
18 inspection, including mileage at the rate established by the
19 Department of Administrative Services and an hourly rate, not to
20 exceed thirty dollars per hour, for the travel and inspection time
21 incurred by the brand committee to perform such inspection. The brand
22 committee shall charge and collect the actual expense fee. Such fee
23 shall apply to inspections performed outside the brand inspection
24 area as part of an investigation into known or alleged violations of
25 the Livestock Brand Act and shall be charged against the person

1 committing the violation.

2 (3) Any person who has reason to believe that cattle were
3 shipped erroneously due to an inspection error during a brand
4 inspection may request a reinspection. The person making such request
5 shall be responsible for the expenses incurred as a result of the
6 reinspection unless the results of the reinspection substantiate the
7 claim of inspection error, in which case the brand committee shall be
8 responsible for the reinspection expenses.

9 Sec. 6. Section 54-1,110, Reissue Revised Statutes of
10 Nebraska, is amended to read:

11 54-1,110 (1) Except as provided in subsections (2) and
12 (3) of this section, no person shall move, in any manner, cattle from
13 a point within the brand inspection area to a point outside the brand
14 inspection area unless such cattle first have a brand inspection by
15 the Nebraska Brand Committee and a certificate of inspection is
16 issued. A copy of such certificate shall accompany the cattle and
17 shall be retained by all persons moving such cattle as a permanent
18 record.

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

1 (3) If the line designating the brand inspection area
2 divides a farm or ranch or lies between noncontiguous parcels of land
3 which are owned or operated by the same cattle owner or owners, a
4 permit may be issued, at the discretion of the Nebraska Brand
5 Committee, to the owner or owners of cattle on such farm, ranch, or
6 parcels of land to move the cattle in and out of the brand inspection
7 area without inspection. If the line designating the brand inspection
8 area lies between a farm or ranch and nearby veterinary medical
9 facilities, a permit may be issued, at the discretion of the brand
10 committee, to the owner or owners of cattle on such farm or ranch to
11 move the cattle in and out of the brand inspection area without
12 inspection to obtain care from the veterinary medical facilities. The
13 brand committee shall issue initial permits only after receiving an
14 application which includes an application fee established by the
15 brand committee which shall not be more than fifteen dollars. The
16 brand committee shall mail all current permitholders an annual
17 renewal notice, for January 1 renewal, which requires a renewal fee
18 established by the brand committee which shall not be more than
19 fifteen dollars. If the permit conditions still exist, the cattle
20 owner or owners may renew the permit.

21 (4) No person shall sell any cattle knowing that the
22 cattle are to be moved, in any manner, in violation of this section.
23 Proof of shipment or removal of the cattle from the brand inspection
24 area by the ~~buyer~~-purchaser or his or her agent is prima facie proof
25 of knowledge that sale was had for removal from the brand inspection

1 area.

2 (5) In cases of prosecution for violation of this
3 section, venue may be established in the county of origin or any
4 other county through which the cattle may pass in leaving the brand
5 inspection area.

6 Sec. 7. Section 54-1,111, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 54-1,111 (1) Except as provided in subsection (2) of this
9 section, no person shall sell or trade any cattle located within the
10 brand inspection area, nor shall any person buy or purchase any such
11 cattle unless the cattle have been inspected for brands and ownership
12 and a certificate of inspection or brand clearance has been issued by
13 the Nebraska Brand Committee. Any person selling such cattle shall
14 present to the brand inspector a properly executed bill of sale,
15 brand clearance, or other satisfactory evidence of ownership which
16 shall be filed with the original certificate of inspection in the
17 records of the brand committee. Any time a brand inspection is
18 required by law, a brand investigator or brand inspector may transfer
19 evidence of ownership of such cattle from a seller to a ~~buyer~~
20 purchaser by issuing a certificate of inspection.

21 (2) A brand inspection is not required:

22 (a) For cattle of a registered feedlot registered under
23 sections 54-1,120 to 54-1,122 shipped for direct slaughter or sale on
24 any terminal market;

25 (b) For cattle of a registered dairy registered under

1 sections 54-1,122.01 and 54-1,122.02 shipped for direct slaughter or
2 sale on any terminal market;

3 (c) For cattle that are transferred to a family
4 corporation when all the shares of capital stock of the corporation
5 are owned by the husband, wife, children, or grandchildren of the
6 transferor and there is no consideration for the transfer other than
7 the issuance of stock of the corporation to such family members;

8 (d) When the change of ownership of cattle is a change in
9 form only and the surviving interests are in the exact proportion as
10 the original interests of ownership. When there is a change of
11 ownership described in subdivision (2)(c) or (d) of this section, an
12 affidavit, on a form prescribed by the Nebraska Brand Committee,
13 signed by the transferor and stating the nature of the transfer and
14 the number of cattle involved and the brands presently on the cattle,
15 shall be filed with the brand committee;

16 (e) For cattle sold or purchased for educational or
17 exhibition purposes or other recognized youth activities if a
18 properly executed bill of sale is exchanged and presented upon
19 demand. Educational or exhibition purpose means cattle sold or
20 purchased for the purpose of being fed, bred, managed, or tended in a
21 program designed to demonstrate or instruct in the use of various
22 feed rations, the selection of individuals of certain physical
23 conformation or breeds, the measurement and recording of rate of gain
24 in weight or fat content of meat or milk produced, or the preparation
25 of cattle for the purpose of exhibition or for judging as to quality

1 and conformation;

2 (f) For calves under the age of thirty days sold or
3 purchased at private treaty if a bill of sale is exchanged and
4 presented upon demand; and

5 (g) For purebred cattle raised by the seller and
6 individually registered with an organized breed association if a
7 properly executed bill of sale is exchanged and presented upon
8 demand.

9 Sec. 8. Section 54-1,120, Reissue Revised Statutes of
10 Nebraska, is amended to read:

11 54-1,120 (1) Any person who operates a cattle feeding
12 operation located within the brand inspection area may make
13 application to the Nebraska Brand Committee for registration as a
14 registered feedlot. The application form shall be prescribed by the
15 brand committee and shall be made available by the director of the
16 brand committee for this purpose upon written request. If the
17 applicant is an individual, the application shall include the
18 applicant's social security number. After the brand committee has
19 received a properly completed application, an agent of the brand
20 committee shall within thirty days make an investigation to determine
21 if the following requirements are satisfied:

22 (a) The operator's feedlot must be permanently fenced;
23 and

24 (b) The operator must commonly practice feeding cattle to
25 finish for slaughter.

1 If the application is satisfactory, and upon payment of a
2 an initial registration fee by the applicant, the brand committee
3 shall issue a registration number and registration certificate valid
4 for one year unless rescinded for cause. If the registration is
5 rescinded for cause, any registration fee shall be forfeited by the
6 applicant. The ~~fees—initial fee for a registered feedlots—feedlot~~
7 shall be ~~not less than one hundred dollars nor more than six hundred~~
8 ~~fifty dollars~~ an amount for each ~~such a~~ registered feedlot having one
9 thousand head or less capacity and an equal amount for each
10 additional one thousand head capacity, or part thereof, of such
11 registered feedlot. For each subsequent year, the renewal fee for a
12 registered feedlot shall be an amount for the first one thousand head
13 or portion thereof of average annual inventory of cattle on feed of
14 the registered feedlot and an equal amount for each additional one
15 thousand head or portion thereof of average annual inventory of
16 cattle on feed of the registered feedlot. The brand committee shall
17 set the fee per one thousand head capacity or average annual
18 inventory so as to correspond with the inspection fee provided under
19 section 54-1,108. The registration fee shall be paid on an annual
20 basis.

21 (2) The brand committee may adopt and promulgate rules
22 and regulations for the operation of registered feedlots to assure
23 that brand laws are complied with, that registered feedlot shipping
24 certificates are available, and that proper records are maintained.
25 Violation of sections 54-1,120 to 54-1,122 subjects the operator to

1 revocation or suspension of the feedlot registration issued. Sections
2 54-1,120 to 54-1,122 shall not be construed as prohibiting the
3 operation of nonregistered feedlots.

4 (3) Registered feedlots are subject to inspection at any
5 reasonable time at the discretion of the brand committee and its
6 authorized agents, and the operator shall show cattle purchase
7 records or certificates of inspection to cover all cattle in his or
8 her feedlot. Cattle having originated from such registered feedlots
9 may from time to time, at the discretion of the committee, be subject
10 to a spot-check inspection and audit at destination to enable the
11 brand committee to assure satisfactory compliance with the brand laws
12 by the registered feedlot operator.

13 (4) The operator of a registered feedlot shall keep
14 cattle inventory records. A form for such purpose shall be prescribed
15 by the brand committee. The brand committee and its employees may
16 from time to time make spot checks and audits of the registered
17 feedlots and the records of cattle on feed in such feedlots.

18 (5) The brand committee may rescind the registration of
19 any registered feedlot operator who fails to cooperate or violates
20 the laws or rules and regulations of the brand committee covering
21 registered feedlots.

22 Sec. 9. Section 54-1,122.01, Reissue Revised Statutes of
23 Nebraska, is amended to read:

24 54-1,122.01 (1) Any person who operates a dairy operation
25 located within the brand inspection area may make application to the

1 Nebraska Brand Committee for registration as a registered dairy. The
2 application form shall be prescribed by the brand committee and shall
3 be made available by the director of the brand committee for this
4 purpose upon written request. If the applicant is an individual, the
5 application shall include the applicant's social security number.
6 After the brand committee has received a properly completed
7 application, an agent of the brand committee shall within thirty days
8 make an investigation to determine if the following requirements are
9 satisfied:

10 (a) The operator's dairy must be permanently fenced; and

11 (b) The operator must identify each animal individually
12 as directed by the Nebraska Brand Committee.

13 If the application is satisfactory, and upon payment of a
14 registration fee by the applicant, the brand committee shall issue a
15 registration number and registration certificate valid for one year
16 unless rescinded for cause. If the registration is rescinded for
17 cause, any registration fee shall be forfeited by the applicant. The
18 initial fee for a registered dairy shall be ~~not less than one hundred~~
19 ~~dollars nor more than six hundred fifty dollars~~ an amount for each
20 ~~such a~~ registered dairy having one thousand head or less capacity and
21 an equal amount for each additional one thousand head capacity, or
22 part thereof, of such registered dairy. For each subsequent year, the
23 renewal fee for a registered dairy shall be an amount for the first
24 one thousand head or portion thereof of average annual inventory of
25 dairy cattle of the registered dairy and an equal amount for each

1 additional one thousand head or portion thereof of average annual
2 inventory of dairy cattle of the registered dairy. The brand
3 committee shall set the fee per one thousand head capacity or average
4 annual inventory so as to correspond with the inspection fee provided
5 under section 54-1,108. The registration fee shall be paid on an
6 annual basis.

7 (2) The brand committee may adopt and promulgate rules
8 and regulations for the operation of registered dairies to assure
9 that brand laws are complied with, that registered dairy shipping
10 certificates are available, and that proper records are maintained.
11 This section shall not be construed as prohibiting the operation of
12 nonregistered dairies.

13 (3) A registered dairy is subject to inspection at any
14 reasonable time at the discretion of the brand committee and its
15 authorized agents, and the operator shall show cattle purchase
16 records or certificates of inspection to cover all cattle in his or
17 her dairy. Cattle having originated from any such registered dairy
18 may from time to time, at the discretion of the committee, be subject
19 to a spot-check inspection and audit at the destination to enable the
20 brand committee to assure satisfactory compliance with the brand laws
21 by the registered dairy operator.

22 (4) The operator of a registered dairy shall keep cattle
23 inventory records. A form for such purpose shall be prescribed by the
24 brand committee. The brand committee and its employees may from time
25 to time make spot checks and audits of registered dairies and the

1 records of cattle in such registered dairies.

2 (5) The brand committee may rescind or suspend the
3 registration of any registered dairy operator who fails to cooperate
4 or violates the laws or rules and regulations of the brand committee
5 covering registered dairies.

6 Sec. 10. Section 54-415, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 54-415 Any person taking up an estray within the brand
9 inspection area or brand inspection service area shall report the
10 same within seven days thereafter to the Nebraska Brand Committee.
11 Any person taking up an estray in any other area of the state shall
12 report the same, ~~if within the brand inspection area, or to the~~
13 ~~county sheriff of the county where the estray was taken up, if not~~
14 ~~within the brand inspection area.~~ If the animal is determined to be
15 an estray by a representative of the Nebraska Brand Committee or the
16 county sheriff, as the case may be, such animal shall, as promptly as
17 may be practicable, be sold through the most convenient livestock
18 auction market. The proceeds of such sale, after deducting the
19 selling expenses, shall be paid over to the Nebraska Brand Committee
20 to be placed in the estray fund identified in section 54-1,118, if
21 such estray was taken up within the brand inspection area or brand
22 inspection service area, and otherwise to the treasurer of the county
23 in which such estray was taken up. During the time such proceeds are
24 impounded, any person taking up such estray may file claim with the
25 Nebraska Brand Committee or the county treasurer, as the case may be,

1 for the expense of feeding and keeping such estray while in his or
2 her possession. When such claim is filed it shall be the duty of the
3 Nebraska Brand Committee or the county board, as the case may be, to
4 decide on the validity of the claim so filed and allow the claim for
5 such amount as may be deemed equitable. When the estray ~~originates~~ is
6 taken up within the brand inspection area or brand inspection service
7 area, such proceeds shall be impounded for one year, unless ownership
8 is determined sooner by the Nebraska Brand Committee, and if
9 ownership is not determined within such one-year period, the proceeds
10 shall be paid into the permanent school fund, less the actual
11 expenses incurred in the investigation and processing of the estray
12 fund. Any amount deducted as actual expenses incurred shall be
13 deposited in the Nebraska Brand Inspection and Theft Prevention Fund.
14 When the estray is ~~located~~ taken up outside the brand inspection area
15 or brand inspection service area and ownership cannot be determined
16 by the county board, the county board shall then order payment of the
17 balance of the sale proceeds less expenses, to the permanent school
18 fund. If the brand committee or the county board determines ownership
19 of an estray sold in accordance with this section by means of
20 evidence of ownership other than the owner's recorded Nebraska brand,
21 an amount not to exceed the actual investigative costs or expenses
22 may be deducted from the proceeds of the sale. Any person who
23 violates this section is guilty of a Class II misdemeanor. The
24 definitions found in sections 54-172 to 54-190 apply to this section.

25 Sec. 11. Sections 5, 8, 9, 11, 12, and 14 of this act

1 become operative on their effective date. The other sections of this
2 act become operative three calendar months after the adjournment of
3 this legislative session.

4 Sec. 12. Original sections 54-1,120 and 54-1,122.01,
5 Reissue Revised Statutes of Nebraska, and section 54-1,108, Revised
6 Statutes Cumulative Supplement, 2012, are repealed.

7 Sec. 13. Original sections 54-172, 54-1,110, 54-1,111,
8 and 54-415, Reissue Revised Statutes of Nebraska, and sections 54-170
9 and 54-171, Revised Statutes Supplement, 2013, are repealed.

10 Sec. 14. Since an emergency exists, this act takes effect
11 when passed and approved according to law.