

## LEGISLATIVE BILL 536

Approved by the Governor April 25, 1983

Introduced by Agriculture & Environment Committee,  
Haberman, 44, Chairperson; R. Peterson,  
21; Chronister, 18; Eret, 32; Pappas,  
42; Wiitala, 31; Pirsch, 10

AN ACT to amend sections 54-101, 54-115, 54-133.01, 54-169, and 54-415, Revised Statutes Supplement, 1982, relating to livestock; to define terms; to change provisions relating to brands; to provide for the disposition of certain funds; to repeal the original sections; and to declare an emergency.

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

Section 1. That section 54-101, Revised Statutes Supplement, 1982, be amended to read as follows:

54-101. As used in sections 54-101.01 to 54-169, 54-415, and 54-1183 to 54-1186, unless the context otherwise requires:

(1) A brand shall mean an identification mark that is burned into the hide of a live animal by a hot iron on either side in any one of three locations, the shoulder, ribs, or hip, except that when the phrase recorded brand is used in sections 54-101 to 54-169 and 54-415, it shall mean a brand properly recorded with the Nebraska Brand Committee as provided by law;

(2) Certificate of inspection shall mean the official document as issued and signed by a brand inspector authorizing movement of livestock from a point of origin within the brand inspection area to a destination either in or out of the brand inspection area or out of state, or authorizing slaughter of livestock as specified on such certificate, or authorizing the change of ownership of livestock as specified on such certificate. Such certificate of inspection shall designate and require the name of the shipper, consignor, or seller of the livestock, the purchaser or consignee of the livestock, the destination of livestock, the method of transportation, the vehicle license number or railroad car number when available, the miles driven by a brand inspector to perform inspection, the amount of brand inspection fees collected,

the number and sex of livestock to be moved or slaughtered, the brands, if any, on the animal or animals and the brand owner. A certificate of inspection shall be construed and intended to be documentary evidence of ownership on all cattle covered by such document;

(3) Brand clearance shall mean the documentary evidence of ownership that is issued and signed by a brand inspector and given to persons who have legally purchased cattle at a livestock auction or sale where a brand inspection service is provided. Such brand clearance shall give the name and address of sale or auction where issued, the name of purchaser, the number and sex of cattle, the brands, if any, and the location on the animal or animals;

(4) Brand committee shall mean the governing body and administrative agency as established under sections 54-135 and 54-136;

(5) Brand inspection agency shall mean an agency of a state, or a duly organized livestock association of a state, authorized by state and federal law to charge and collect at designated stockyards, packing plants, sales barns, or farm and ranch loading points, a reasonable and nondiscriminatory fee for the inspection of brands, marks, and other identifying characteristics of livestock originating in or shipped from such state for the purpose of determining the ownership of such livestock;

(6) Brand inspector shall mean a person employed by the Nebraska Brand Committee, or some other brand inspection agency, within or without the State of Nebraska, for the purpose of identifying brands or marks, or other identifying characteristics of livestock, to determine the existence of such brands or marks or identifying characteristics and from such determinations attempt to establish correct and true ownership of such livestock, and generally carry out the provisions and enforcement of all laws pertaining to brands, brand inspection, and associated livestock laws. At any time a brand inspection is required by law, any duly authorized Nebraska brand inspector or brand investigator shall have the authority to transfer evidence of ownership of such cattle from a seller to a buyer by issuing a certificate of inspection;

(7) Stockyard shall mean any place, establishment, or facility commonly known as stockyards conducted or operated for compensation or profit as a public market, consisting of pens or other enclosures, and their appurtenances, in which live cattle, sheep, swine, horses, mules, or goats are received, held, or kept for sale or shipment in commerce;

(8) Stockyard owner shall mean any person engaged in the business of owning or conducting or operating a stockyard;

(9) Stockyard services shall mean services or

facilities furnished at a stockyard in connection with the receiving, buying, or selling on a commission basis or otherwise, marketing, feeding, watering, holding, delivering, shipping, weighing, or handling, in commerce, of livestock;

(10) Sales ring shall mean any place, establishment, or facility conducted or operated for compensation or profit as a public market, consisting of pens or other enclosures, barns, stables, sheds, and their appurtenances, including saddle and work stock, and vehicles used in connection therewith or in the operation thereof, where livestock not owned by the owner or operator is received, held, or kept for any purpose other than (a) immediate shipment by rail, or immediate slaughter, (b) for grazing, feeding, or breeding, or (c) for the sale and exchange of breeding stock by a bona fide livestock association;

(11) Sales ring operator shall mean any person in control of the management or operation of a sales ring;

(12) Open market shall mean a sales barn, market agency, stockyard, packing plant, or terminal market located out of the Nebraska brand inspection area as defined in section 54-134, or out of the confines and boundaries of the State of Nebraska, declared as such by the Nebraska Brand Committee under section 54-142, where brand inspection is maintained either by the Nebraska Brand Committee employees or by some other state under a reciprocal agreement as allowed under the Packers and Stockyards Act, 1921, as amended;

(13) Market agency shall mean any person engaged in the business of (a) buying or selling in commerce livestock on a commission basis, or (b) furnishing stockyard services;

(14) Cattle shall mean bovine cattle only, and shall not relate to or include any other kind of domestic animal;

(15) Livestock shall mean any domestic cattle, horses, mules, donkeys, sheep, or swine;

(16) Hide shall mean the skin or outer covering of an animal whether raw or dressed, alive or dead;

(17) Carcasses shall mean the body or bodies, or part thereof but not less than one-fourth of a body of any dead or slaughtered domestic cattle, horses, mules, donkeys, sheep, or swine;

(18) Slaughterhouse shall mean an establishment that slaughters, kills, or butchers livestock, either for itself or for others, for compensation, or otherwise disposes of such livestock in a processed or semiprocessed manner;

(19) Packing plant or packing house shall mean an establishment for slaughtering, processing, and packing livestock into meat, meat products, and byproducts or for processing and packing other foodstuffs;

(20) Dealer shall mean any person, not a market agency, engaged in the business of buying or selling in commerce livestock either on his or her own account or as the employee or agent of the vendor or purchaser;

(21) Estray shall mean any cattle, horse, mule, donkey, sheep, or swine, found running at large upon public or private lands, either fenced or unfenced, in the State of Nebraska, whose owner is unknown in the area where found, or is branded with a brand which is not on record in the office of the Nebraska Brand Committee or any animal for which ownership has not been established as provided in section 54-148;

(22) Interstate shall mean from or between points in one state and points in another state;

(23) Intrastate shall mean within the state;

(24) Moved or movement shall mean, as applied to livestock, transported, shipped, delivered, or received for transportation, driven on foot or caused to be driven on foot by any person, or shipped or delivered or received for transportation by any person;

(25) Brand inspection area shall mean that portion of the State of Nebraska designated by the Legislature as a brand area as set forth in section 54-134, where brand inspection shall be mandatory and performed on all cattle sold at auction markets, packing plants, slaughterhouses, or farm or ranch sales within such area, and on all other cattle prior to leaving such brand inspection area, unless destined for an open market designated as such by the Nebraska Brand Committee;

(26) Investigators shall mean such employees of the Nebraska Brand Committee as are commissioned deputy state sheriffs and shall have the duty, responsibility, and authority to enforce all state statutes pertaining to brands, brand inspection, and associated livestock laws, whether civil or criminal. Such investigators shall also be responsible for the investigation of all problems associated with brands, brand inspection, and associated livestock enforcement problems;

(27) Satisfactory evidence of ownership shall consist of the brands, tattoos, or marks on the livestock; point of origin of livestock; the physical description of the livestock; the documentary evidence, such as bills of sale, brand clearance, certificates of brand inspection, breed registration certificates, animal health or testing certificates, brand recording certificates, purchase sheets, scale tickets, disclaimers of interest, affidavits, court orders, security agreements, powers of attorney, canceled checks, bills of lading, or tags; and such other facts, statements, or circumstances that taken in whole or in part cause a brand inspector to believe that proof of ownership is established;

(28) Bill of sale shall mean a formal instrument for the conveyance or transfer of title to livestock or

other goods and chattels. The bill of sale shall state the buyer's name and address, the date of transfer, the guarantee of title, the number of livestock transferred, the sex, the brand or brands, the location of the brand or brands or a statement to the effect that the animal is unbranded, and the name and address of the seller. The signature of the seller shall be attested by at least one witness, or acknowledged by a notary public, or by some officer authorized by state law to take acknowledgment;

(29) Estray fund shall mean the fund that the Nebraska Brand Committee receives from the sale of any estray livestock. Such fund shall be disposed of in the manner provided in section 54-415;

(30) Daylight hours shall mean from sunrise to sunset;

(31) Acid brand shall mean any such mark or brand that has been applied by use of a chemical compound and when so used causes a scar-like tissue to form on the hide of a live animal;

(32) Freeze brand shall mean any such mark or brand that is created on a live animal in a depigmentation technique, whereby the pigment producing cells in the skin of an animal are destroyed by the application of intense cold to the skin area;

(33) Chairperson shall mean the presiding officer of the Nebraska Brand Committee;

(34) Unbranded shall mean that any such designated livestock does not carry a brand of any kind;

(35) Branded shall mean any such designated livestock carries a brand of any kind defined in this section; PROVIDED, a legal brand for identification in Nebraska shall be as defined in subdivision (1) of this section;

(36) Registered feedlot shall mean but not be limited to any permanent, fenced, drylot status area where cattle are fed and finished for slaughter purposes, which lot has been inspected and registered and for which a permit has been issued;

(37) Brand recorder shall mean a person employed by the Nebraska Brand Committee who shall be responsible for the processing of all applications for the recording of new livestock brands, the transfer of ownership of existing livestock brands, maintenance of accurate and permanent records relating to each and every livestock brand of record, and such other duties as may be required by the Nebraska Brand Committee to satisfactorily carry out the provisions of sections 54-101 to 54-168;

(38) A mark shall mean a physical identification that shall consist of, but not be limited to, visible characteristics on an animal such as a natural, accidental, or manmade blemish that sets apart a particular animal from all others of a similar kind or breed. Such marks may consist of, but not be limited to,

hair coloration, scars, brands, ~~ex~~ ear marks, or tatoos; and

(39) Tattoo shall mean the conspicuous curvilinear marks or patterns brought about by pricking a pigment coloration into the skin of an animal by using a needle or similar device, or the act of marking, coloring, or pricking into the skin of an animal coloring matter or ink which forms an indelible mark or figure; and

{39} (40) Educational or exhibition purpose shall mean cattle sold or purchased for the purpose of being fed, bred, managed, or tended in a program designed to demonstrate or instruct in the use of various feed rations, the selection of individuals of certain physical conformation or breeds, the measurement and recording of rate of gain in weight or fat content of meat or milk produced, or the art of dressage or preparation of cattle for the purpose of exhibition or for judging as to quality and conformation.

In subdivisions (1) to ~~{38}~~ (40) of this section, when the context or the circumstances so require, words importing a singular number may be expanded to several persons or things, and words importing the plural number may be applied to one person or thing, and words importing the masculine gender only may be expanded to the feminine or neuter gender.

Sec. 2. That section 54-115, Revised Statutes Supplement, 1982, be amended to read as follows:

54-115. It shall be the duty of any person or persons, partnership, organization, or corporation, who brings into any county of this state for grazing purposes, any animals mentioned in section 54-102, already branded, to lay before the Nebraska Brand Committee a statement of the brands of such animals, ~~and if such brands conflict with any previously recorded, it shall be the duty of the owner or manager of such animals to brand them with a brand that the Nebraska Brand Committee shall consider a full distinguishable brand from all brands recorded, and such owner shall be enjoined from the further use of the conflicting brand.~~ A failure to comply with the provisions of this section shall render the party so violating liable for all damages resulting from such failure. ~~This section shall apply to all animals in any county in this state whose brands infringe on previously recorded brands. The penalty for violation of this section shall be as provided in section 54-156.~~

Sec. 3. That section 54-133.01 Revised Statutes Supplement, 1982, be amended to read as follows:

54-133.01. The numerals 0, 1, 2, 3, 4, 5, 6, 7, 8, and 9 in singular or triangular position are hereby reserved for in-herd identification on both the right and left shoulder of all livestock. In addition, for the purposes of in-herd identification, an alphabetical letter may be substituted for one of the numerals used in a

triangular configuration. It shall be unlawful for any person, partnership, firm, or corporation to use ~~said~~ such shoulder location for single-number branding except for year branding. The in-herd identification brand shall be used in conjunction with the regular registered brand on the same side of the animal as the registered brand.

Sec. 4. That section 54-169, Revised Statutes Supplement, 1982, be amended to read as follows:

54-169. No person, firm, association, partnership, or corporation shall sell or trade any cattle located within the brand area of Nebraska, nor shall any person, firm, association, partnership, or corporation buy or purchase any such cattle, unless each such animal has been inspected for brands and ownership and a brand inspection certificate or clearance issued by the Nebraska Brand Committee. Any person, firm, association, partnership, corporation, or authorized agent selling such cattle shall present to the brand inspector a properly executed bill of sale, brand clearance, or other satisfactory evidence of ownership, which shall be filed with the original inspection certificate in the records of the Nebraska Brand Committee. At any time a brand inspection is required by law, any duly authorized Nebraska brand inspector or brand investigator shall have the authority to transfer evidence of ownership of such cattle from a seller to a buyer. The only exceptions to the provisions of this section shall be:

(1) Cattle that fall under the provisions of the registered feedlot laws, rules, and regulations;

(2) No brand inspection shall be required when cattle or other livestock are transferred to a family corporation when all the shares of capital stock of the corporation are owned by the husband, wife, children, or grandchildren of the transferor and there is no consideration for the transfer other than the issuance of stock of the corporation to such family members; ~~and~~

(3) No brand inspection shall be required when the change of ownership of cattle is a change in form only and the surviving interests are in the exact proportion as the original interests of ownership. When there is a change of ownership described in subdivision (2) or (3) of this section, an affidavit, on a form prescribed by the Nebraska Brand Committee, signed by the transferor and stating the nature of the transfer and the number of cattle involved and the brands presently on the cattle, shall be filed with the Nebraska Brand Committee;

(4) No brand inspection shall be initially required on cattle sold or purchased for educational or exhibition purposes or other recognized youth activities if a legal bill of sale is exchanged and presented upon demand as required by sections 54-116 and 54-117;

(5) No brand inspection shall be required for the sale or purchase at private treaty of baby calves under

the age of thirty days if a legal bill of sale is exchanged and presented upon demand as required by sections 54-116 and 54-117; and

(6) Purebred cattle raised by the seller and individually registered with an organized breed association if a legal bill of sale is exchanged and presented upon demand as required by sections 54-116 and 54-117.

The exceptions provided in subdivisions (1) to (6) of this section are for the purposes of this section only and shall not exempt these classes of cattle from the provisions of any other applicable statute.

Sec. 5. That section 54-415, Revised Statutes Supplement, 1982, be amended to read as follows:

54-415. It shall be the duty of any person taking up an estray to report the same within seven days thereafter to the Nebraska Brand Committee, if within the brand inspection area, or to the county sheriff of the county where the estray was taken up, if without the brand inspection area. If the animal is determined to be an estray by a representative of the Nebraska Brand Committee or the county sheriff, as the case may be, such animal shall, as promptly as may be practicable, be sold through the most convenient livestock auction market. The proceeds of such sale, after deducting the selling expenses, shall be paid over to the Nebraska Brand Committee to be placed in the Estray Fund, if such estray was taken up within the brand inspection area, and otherwise to the treasurer of the county in which such estray was taken up. During the time such proceeds are impounded, any person taking up such estray may file claim with the Nebraska Brand Committee or the county treasurer, as the case may be, for the expense of feeding and keeping such estray while in his or her possession. When such claim is filed it shall be the duty of the Nebraska Brand Committee or the county board, as the case may be, to decide on the validity of the claim so filed and allow the claim for such amount as may be deemed equitable. When the estray originates within the Nebraska brand area such proceeds shall be impounded for one year, unless ownership is determined sooner by the Nebraska Brand Committee, and if ownership is not determined within such one-year period, the proceeds shall be paid into the state school fund, less the actual expenses incurred in the investigation and processing of the entire Estray Fund. The Any amount deducted as actual expenses incurred shall be deposited in the Nebraska Brand Inspection and Theft Prevention Fund. When the estray originates from is located outside the Nebraska brand area and ownership cannot be determined by the county board, the county board shall then order payment of the balance of the sale proceeds less expenses, to the state school fund. If the brand committee or the county board determines ownership



of an estray sold in accordance with this section by means of evidence of ownership other than the owner's recorded Nebraska brand, an amount not to exceed the actual investigative costs or expenses may be deducted from the proceeds of the sale. The penalty for violation of this section shall be as provided in section 54-156.

Sec. 6. That original sections 54-101, 54-115, 54-133.01, 54-169, and 54-415, Revised Statutes Supplement, 1982, are repealed.

Sec. 7. Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.