

LEGISLATIVE BILL 450

Approved by the Governor March 30, 1987

Introduced by Scofield, 49; Dierks, 40

AN ACT relating to brands and marks; to amend sections 54-101, 54-104.01, 54-105, 54-112, 54-132, 54-147, 54-162, and 54-1183 to 54-1185, Reissue Revised Statutes of Nebraska, 1943; to redefine terms; to change reinstatement and transfer provisions for expired brands; to provide charges and procedures for copies of certain documents; to change provisions relating to a fund; to change provisions relating to certain brands; to provide for inspections and reinspections in certain cases; to harmonize provisions; and to repeal the original sections.

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

Section 1. That section 54-101, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

54-101. As used in sections ~~54-101-01~~ 54-101 to 54-169, 54-415, and 54-1183 to 54-1186 and section 7 of this act, 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 and section 7 of this act, it shall mean a brand properly recorded with the Nebraska Brand Committee 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 Nebraska Brand Committee 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 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 created in section 54-134, or out of the confines and boundaries of the State of Nebraska, declared as such by the Nebraska Brand Committee brand committee under section 54-142, where brand inspection is maintained either by the Nebraska Brand Committee employees of the brand committee 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 any such animal which~~ is branded with a brand which is not on record in the office of the ~~Nebraska Brand Committee~~ 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 brand committee:

(26) Investigators shall mean such employees of the Nebraska Brand Committee 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 of such livestock, 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 other officer authorized by state law to take acknowledgment;

(29) Estray fund shall mean the fund funds that the Nebraska Brand Committee brand committee receives from the sale of any estray livestock. Such The estray 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 scarlike 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 brand committee;

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

(35) Branded shall mean that any such designated livestock carries a brand of any kind defined in this section. A 7 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 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, the 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 brand committee to satisfactorily carry out the provisions of sections 54-101 to 54-168 54-169;

(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, earmarks, or tattoos;

(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

(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 (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 54-104.01, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

54-104.01. The Nebraska Brand Committee brand committee shall have the authority to hold an expired brand for two years one year following the date of expiration, before such committee shall be obligated to reissue such brand. An expired brand may be reinstated by the same owner during such two-year one-year period upon completion return of a new application reinstatement form and payment of a recording fee of twenty-five dollars for the first location on a side, and fifteen dollars for each additional location requested on that side and a penalty of five dollars for each month or part of a month which has passed since the date of expiration. An expired A properly reinstated brand may be reissued transferred to another person during such two-year one-year period upon completion of an application a transfer form, with a notarized consent form bill of sale signed by the prior owner, attached to such application transfer form. The recording fee shall be twenty-five dollars for the first location on a side, and fifteen dollars for each additional location requested on that side in the same ownership.

Sec. 3. That section 54-105, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

54-105. When any brand is recorded, the owner thereof shall be entitled to one certified copy of the record of such brand from the Nebraska Brand Committee brand committee. Additional certified copies of the record may be obtained by anyone upon the payment of one dollar for each copy.

Copies of any other document of the brand committee may be requested, and a fee of one dollar shall be collected for each page copied. Only personnel authorized by the brand committee shall make copies and collect such fees. The party requesting the copies

shall be responsible for payment of the fee and shall reimburse the brand committee for the research time necessary to furnish the requested documents at a rate of not less than twelve nor more than twenty dollars per hour of research time. The rate shall be reviewed and set annually by the brand committee.

Sec. 4. That section 54-112, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

54-112. All fees and money, collected by reason of the provisions of pursuant to sections 54-101 to 54-126 54-128 by the Nebraska Brand Committee, shall be deposited in the Nebraska Brand Inspection and Theft Prevention Fund. All expenses and salaries, provided for under such sections, or incurred by reason thereof, shall be paid out of the Nebraska Brand Inspection and Theft Prevention Fund. Any money in such fund available for investment shall be invested by the state investment officer pursuant to the provisions of sections 72-1237 to 72-1259.

Sec. 5. That section 54-132, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

54-132. It shall be the duty of every person when spaying heifers, upon request of the owner thereof, to brand such heifers with an O on the left jaw, and to furnish the owner with a certificate that all heifers so branded have been properly spayed by a licensed veterinarian. Permission may be granted by the Nebraska Brand Committee to state and federal animal disease control agencies to require the use of the letters E, V, B, S, and T and an open-end spade on either the right or left jaw of cattle in a manner consistent with animal disease control laws. in addition, permission may be granted to use the letter G high on the tailhead.

Sec. 6. That section 54-147, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

54-147. A uniform fee to be fixed by the Nebraska Brand Committee brand committee of not to exceed sixty-five cents per head, shall be charged for all cattle inspected; in accordance with the provisions of sections 54-134 to 54-169 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. The owner or seller of cattle so inspected 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 shall be held 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. All fees collected by the Nebraska Brand Committee brand committee shall be deposited in the Nebraska state treasury in a fund to be known as the Nebraska Brand Inspection and Theft Prevention Fund. All money in the fund, if and when appropriated by the Legislature, shall be used by the Nebraska Brand Committee brand committee in the administration and enforcement of said sections 54-134 to 54-169 and 54-415. Any unexpended balance that remains in the fund at the end of any biennium shall, when reappropriated by the Legislature, be available for the uses and purposes of the fund for the succeeding biennium. The fund shall be paid out only upon the proper vouchers approved by the Nebraska Brand Committee brand committee upon warrants issued by the Director of Administrative Services and countersigned by the State Treasurer as provided by law. Any money in the Nebraska Brand Inspection and Theft Prevention Fund available for investment shall be invested by the state investment officer pursuant to the provisions of sections 72-1237 to 72-1259 72-1269.

Sec. 7. Any person who has reason to believe that cattle were shipped erroneously due to an inspection error during a duly authorized 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. 8. That section 54-162, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

54-162. Any cattle originating in a state that maintains brand inspection registered with the Packers and Stockyards Division of the United States Department of Agriculture and accompanied by a valid certificate of inspection or brand release issued by such agency may be moved directly from the point of origin into a registered feedlot. Any cattle not accompanied by a valid certificate of inspection or brand release issued by a brand inspection agency registered with the Packers and Stockyards Division of

the United States Department of Agriculture or a satisfactory proof of ownership from states or portions of states not having brand inspection must shall be inspected for brands by the Nebraska Brand Committee brand committee within a reasonable time after arrival at a registered feedlot, and the inspection fee provided by section 54-147, shall be collected by the brand inspector at the time the inspection is performed.

Sec. 9. That section 54-1183, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

54-1183. The owner or operator of any livestock auction market or packing plant located in any county adjacent to outside the Nebraska brand inspection area, as defined created in section 54-134, may voluntarily elect to provide brand inspection for all cattle brought to such livestock auction market or packing plant from within the brand inspection area upon compliance with the provisions of sections 54-1183 to 54-1185.

Sec. 10. That section 54-1184, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

54-1184. The election provided for by section 54-1183, shall be made by (1) filing with the Secretary of State, in a form to be prescribed by the secretary, a written notice of such election and agreement to be bound by the provisions of section 54-1185; and by (2) posting conspicuously on the premises a notice of the fact that brand inspection is provided at such livestock auction market or packing plant.

Sec. 11. That section 54-1185, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

54-1185. Inspection provided for in sections 54-1183 to 54-1185, shall be conducted in the manner established by sections 54-134 to 54-156. The owner or operator making such election shall guarantee to the Nebraska Brand Committee that inspection fees derived from such livestock auction market shall or packing plant will be sufficient, in each six-month period, to pay the per diem and mileage of the inspectors required and that he or she will reimburse the committee for any deficit incurred in any such six-month period. Such guarantee shall be secured by a corporate surety bond, to be approved by the Secretary of State, in a penal sum to be established by the Nebraska Brand Committee.

Sec. 12. That original sections 54-101, 54-104.01, 54-105, 54-112, 54-132, 54-147, 54-162, and

LB 450

LB 450

54-1183 to 54-1185, Reissue Revised Statutes of
Nebraska, 1943, are repealed.