

LEGISLATIVE BILL 1001

Approved by the Governor April 17, 1986

Introduced by Peterson, 21

AN ACT relating to bee husbandry; to amend sections 81-2,165, 81-2,166 to 81-2,171, 81-2,173, 81-2,176, and 81-2,177.01, Reissue Revised Statutes of Nebraska, 1943, and section 81-2,174, Revised Statutes Supplement, 1984; to define and redefine terms; to change provisions relating to the prevention and control of contagious and infectious bee diseases, parasites, and pests; to authorize inspections; to provide for fees; to harmonize provisions; to provide an operative date; to repeal the original sections, and also section 81-2,175, Reissue Revised Statutes of Nebraska, 1943; and to declare an emergency.

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

Section 1. That section 81-2,165, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

81-2,165. The Department of Agriculture, under the direction of the State Apiarist and his or her assistants, shall enforce the provisions of sections 81-2,165 to 81-2,180. The Director of Agriculture shall have authority to make, or cause to be made, all necessary examinations and inspections, and to adopt and promulgate such rules, regulations, and orders as may be necessary to enforce such sections promptly and effectively. the provisions of said sections.

It shall be the duty of the department to take all measures necessary to prevent the introduction, spread, or dissemination of any and all contagious or infectious diseases, parasites, or pests of honeybees and to bring or cause to be brought actions and proceedings in the name of the people of the State of Nebraska to enforce the provisions of said such sections.

There is hereby created the position of State Apiarist. He or she shall be appointed by the Director of Agriculture. He or she shall be a graduate of a recognized university with a major or its equivalent in entomology or apiculture or in lieu thereof his or her appointment shall be made on the basis of recognized and

demonstrated interest in and knowledge of apiculture or entomology covering a minimum of ten years' experience in apicultural interests and bee diseases. It shall be the duty of the State Apiarist to aid in the protection of the apicultural interests in the state from bee diseases, parasites, or pests. He The State Apiarist shall be furnished suitable office space in the office of the state entomologist Department of Agriculture.

Sec. 2. That section 81-2,166, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

81-2,166. As used in sections 81-2,165 to 81-2,180, unless the context otherwise requires:

(1) Bees shall mean any stage of the common honeybee, Apis mellifera L;

(2) Bee diseases shall mean American or European foul brood, sac brood, bee paralysis or any other disease or abnormal condition of egg, larva, pupal or adult stages of bees Disease shall mean American foulbrood, European foulbrood, chalkbrood, sacbrood, paralysis, or any other abnormal condition of egg, larva, pupa, or the adult stages of bees;

(3) Parasite shall mean any harmful organism living in or on bees including, but not limited to, Varroa jacobsoni, Acarapis woodi, and Tropilaelaps clareae;

(4) Pest shall mean any harmful subspecies of the honeybee Apis mellifera, including, but not limited to, Apis mellifera scutellata;

(5) Exotic disease, parasite, or pest shall mean any disease, parasite, or pest not known to be established in this state;

(6) Apiary shall mean any place where one or more colonies of bees or nuclei of bees are kept located;

(7) Queen Apiary shall mean any apiary or premises in which queen bees are reared or kept for sale or gift;

(8) Hive shall mean a frame hive, box hive, box, barrel, log gum, skep, or any other receptacle or container, natural or artificial, or any part thereof, which may be used or employed as a domicile for bees;

(9) Appliances shall mean any apparatus, tools, machine or other device, used in the handling and manipulating of bees, honey, wax and hives, and any container of honey and wax which may be used in any apiary or in transporting bees and their products and apiary supplies;

{7} (8) Colony shall mean the hive, its appurtenances, honey and bees; and in apiaries where there are queen nuclei, eight queen nuclei shall constitute a colony; and for tax purposes, all nuclei other than queen nuclei shall be taxed as full colonies aggregate of worker bees, drones, the queen, and developing young bees living together as a family unit in a hive or other dwelling;

{8} Nuclei shall mean colonies consisting of one or more combs of bees and brood (9) Nucleus shall mean a small mass of bees and combs of brood used in forming a new colony;

{9} Queen nuclei shall mean colonies consisting of three frames or less kept for the purpose of raising or storing extra queens;

{10} Bee equipment shall mean hives, supers, frames, veils, gloves, or any other appliances apparatus, tool, machine, vehicle, or any other device used in the handling, moving, or manipulating of bees, honey, wax, or hives, including containers of honey or wax which may be used in any apiary or in transporting bees and their products and apiary supplies;

{11} Persons shall mean individuals, associations, partnerships and corporations; and

{12} (11) Beekeeping shall mean the moving, raising, and producing of bees, beeswax, and honey, which is an agricultural pursuit. Any keeper of fifty or more hives of bees who is engaged in the foregoing activities is a farmer and engaged in farming for all statutory purposes;

{12} Abandoned apiary shall mean any apiary not regularly attended in accordance with good beekeeping practices and which constitutes a disease, parasite, or pest hazard to the beekeeping industry; and

{13} Director shall mean the Director of Agriculture or his or her designated representative.

Words used in said such sections shall be construed to import either the plural or singular, as the case demands.

Sec. 3. That section 81-2,167, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

81-2,167. In order to accomplish the purposes of inspection and the carrying out of the provisions of sections 81-2,165 to 81-2,180, or any rule, regulation, or order made in pursuance of said pursuant to such sections, the officers and employees of the Department of Agriculture shall have authority at all reasonable times to enter upon any public or private premises for

the purpose of ascertaining the existence of, or for treatment or destruction of any contagious or infectious disease diseases, parasites, or pests of bees or brood. They shall have free access to all apiaries, structures, ~~appliancees~~ bee equipment, or premises where bees, ~~or~~ honey, ~~or~~ used bee equipment, or comb in apiaries may be. They may open any hive, colony, package, or receptacle of any kind containing, or which they have reason to believe contains, any bees, comb, bee products, used beekeeping equipment, or anything else which is capable of transmitting contagious or infectious diseases, parasites, or pests of bees; and they may stop pedestrians, motor cars, and vehicles when they are likely to be carrying, contrary to said such sections, or any rule, regulation, or order established in pursuance of said pursuant to such sections, any bees, comb, used bee equipment, or anything else which is capable of transmitting contagious or infectious diseases, parasites, or pests of bees. They shall have authority to inspect or reinspect at any time or place any bees, bee products, or used bee equipment shipped in or into the state and to treat it as provided in section 81-2,171. It shall be unlawful to deny such access to the officers and employees of the department or to offer any resistance to, thwart, or hinder such officers and employees by misrepresentation or by concealing facts or conditions. They shall have the power to inspect any apiary or honey house or building or portion of building or container in which honey is stored, graded, or processed, and to determine whether or not any insanitary conditions exist. If it is found that insanitary conditions exist or are permitted to exist, the owner, or person in charge, shall be notified in writing to place such honey house, building, or portion of building or container in a sanitary condition within a reasonable length of time, and any operator or owner of such honey house, building, or container failing to obey such notice shall be guilty of a misdemeanor and shall be punished as provided in section 81-2,179. Each apiary not located at the owner's or operator's place of residence shall have posted in a conspicuous place the name and address of the owner.

Sec. 4. That section 81-2,168, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

81-2,168. If, upon inspection of any bee colonies in the state, the existence of foal breed or other contagious or infectious diseases common to bees is diseases, parasites, or pests are found, the

Department of Agriculture, or its duly authorized agent, shall notify in writing the owner or person in charge of the bees, stating the nature of the disease, parasite, or pest and the best method of treating such disease, parasite, or pest, which treatment shall be administered by the owner or person in charge within ten days thereafter. The written notice may be served by handing a copy thereof to the owner or person in charge of the apiary, ~~or~~ by leaving a copy thereof with an adult person residing upon the premises, or by either registered or certified mail addressed to the owner or person in charge of such apiary at his or her last-known or reputed address.

Sec. 5. That section 81-2,169, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

81-2,169. Infected shipments, apiaries wherein the existing disease, parasite, or pest cannot be successfully treated, and apiaries which are affected by a disease, parasite, or pest amenable to treatment, but which have not been treated within a period of ten days after the owner thereof shall have received notice of the necessary treatment, as provided in section 81-2,168, and apiaries having bees in hives without movable frames, or any colonies of bees, ~~queen nuclei,~~ or shipments of used bee equipment which entered this state illegally, are declared to be a public nuisance and menace to the community, and the officers and employees of the Department of Agriculture may destroy, by burning or otherwise, without any remuneration to the owner, any box hives or infected bees, hives, or used bee equipment found therein.

Sec. 6. That section 81-2,170, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

81-2,170. (1) It shall be unlawful for any person knowingly to keep in his or her possession, without proper treatment, any colony of bees affected with any bee ~~disease~~ diseases, parasites, or pests, or to expose any diseased or parasitized colony or infected hive or ~~apiary~~ bee equipment so that flying bees may have access to them. Any person who knows that bees owned or controlled by him or her are affected with any contagious or infectious ~~disease~~ diseases, parasites, or pests shall at once report such fact to the Department of Agriculture, stating all facts known to him or her with reference to the contagion or infection. When where it has been determined that disease has contagious or infectious diseases, parasites, or pests have been

found in an apiary, ~~that~~ such apiary shall be quarantined by the department for a period of at least thirty days, ~~except~~ ; ~~PROVIDED~~; that in apiaries when where disease is diseases, parasites, or pests are found to exist in the fall of the year toward the end of the brood rearing season, such apiaries ~~shall~~ may be quarantined until May 1 of the following year unless released by the department. During that period no colony, honey, or bee equipment of any kind may be removed from the apiary unless under special written permit issued by the State Apiarist or bee inspector. A notice shall be posted in each yard so quarantined and written notice shall be sent to the owner or person in charge. Should any state be willing to accept bees or used bee equipment from a quarantined yard of bees in Nebraska, the State Apiarist of Nebraska may, after all known disease has contagious or infectious diseases, parasites, or pests have been destroyed, issue a special permit allowing bees and used bee equipment to be moved out of the state. The State Apiarist of Nebraska may refuse to issue an entry permit for any colonies of bees or used bee equipment of the person involved during the period of the next three years.

(2) If an exotic disease, parasite, or pest is found to have been introduced into this state, the director shall have the authority to quarantine any portion of this state until he or she can determine whether the disease, pest, or parasite has spread and may take action to eradicate or prevent the spread of the exotic disease, parasite, or pest as provided in sections 81-2,168 to 81-2,170. Beekeepers affected shall be notified in writing of the quarantine and shall also be notified in writing when the quarantine is released.

Sec. 7. That section 81-2,171, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

81-2,171. It shall be unlawful for any person, firm, corporation, or transportation company to bring into this state any bees on comb, used hives, or other used apiary appliances bee equipment from any other states or countries except under special permits. Common ; ~~PROVIDED~~; that ~~common~~ carriers may transport bees and apiary appliances bee equipment through this state if the shipment originated outside of this state and is destined for some point outside of it. It shall be unlawful for any person to bring or cause to be brought into this state any colonies of bees, combless packages, queen bees, or nuclei unless there is plainly

and legibly marked thereon or affixed thereto, or on or to the car or other vehicle carrying the colony, combless package, queen bee, or nuclei nucleus, in a conspicuous place, a statement or a tag or other device showing the names and addresses of the consignors or shippers, the consignees or persons to whom shipped, and the name of the locality of origin, together with a certificate of inspection of the proper official of the state, territory, district, or country from which it was brought or shipped, showing that such bees were found or believed to be free from any infectious or contagious bee diseases, parasites, or pests. Colonies of bees ~~must~~ shall also be accompanied by a written permit from the State Apiarist as provided for further in this section. Whenever bees are shipped into Nebraska covered by a valid certificate issued by other state or government inspectors, such certificate shall be held prima facie evidence of the facts therein stated, but the Department of Agriculture shall be authorized to inspect or reinspect such colonies of bees, and, if necessary because an infectious or contagious bee disease is diseases, parasites, or pests are found, subject it to proper treatment or return it to the consignor at his or her expense.

When the State Apiarist or his or her assistants ~~shall~~ find ~~few~~ breed repeatedly contagious or infectious diseases, parasites, or pests in colonies of bees shipped from another state under official certificates of inspection, the State Apiarist thereafter ~~shall~~ may refuse to recognize the certificate of such state until such time as the State Apiarist ~~shall receive~~ receives satisfactory information that its inspection service has again become trustworthy reliable.

Any beekeeper, dealer, firm, or organization who desires to move colonies of bees into Nebraska shall apply to the State Apiarist for a written entry permit at least sixty days prior to the date such person proposes to enter the state, except that the Director of Agriculture may waive the sixty day requirement upon request when an entry permit is sought for ten colonies or less by a ~~hobbyist~~ beekeeper who intends to establish Nebraska as his or her new state of residence. A statement ~~must~~ shall accompany each application for a permit stating any conviction that the applicant has for violation of any bee law of any state of the United States. The written permit ~~must~~ shall accompany all such shipments when they enter the state. Entry into the state without a permit shall be unlawful. Each

shipment of bees or each shipment of used bee equipment brought into this state without compliance with this section shall constitute a separate offense.

Each day during which each shipment of bees or each shipment of used bee equipment remains in this state without compliance with this section shall constitute a separate offense. Colonies of bees and used bee equipment brought into the state in violation of this section may be declared a nuisance and be removed from the state within five days after notification by the Department of Agriculture or the department shall be empowered to destroy the colonies, nuclei, or used bee equipment by burning without any remuneration to the owner. Notification shall be given in writing to the owner or person in charge of such bees or equipment. Written notice may be served by handing a copy thereof to the owner or person in charge of the apiary, ~~or~~ by leaving a copy thereof with an adult person residing upon the premises, or by registered or certified mail addressed to the owner or person in charge of such apiary at his or her last-known or reputed address. At the time of application for the entry permit the following conditions ~~must~~ shall be met:

(1) A statement of facts from the state apiary inspector of the state of origin ~~shall~~ must be furnished giving the past three years' disease history of the apiary or apiaries from which such colonies of bees are to originate. (a) A permit may be denied even though an inspection within the last sixty days shows the bees to be free of ~~disease, diseases, parasites, or pests~~ when, in the opinion of the department, the ~~disease, parasite, or pest~~ history during the immediately preceding three years is so high as to warrant concern that the colonies of bees might be carrying a hidden ~~disease diseases, parasites, or pests~~. (b) A permit may be denied to anyone having a past record of conviction of willful violation of the bee law in any state of the United States. This shall also pertain to colonies of bees leased by the owner or firm to other persons.

(2) A list of beeyard locations where the colonies of bees can be inspected after they are brought into the state ~~must~~ shall be furnished. Such locations shall show county, range, township, section, and quarter section. After the permit is issued, colonies covered by the permit shall be placed on the locations noted on the permit and notice of such placement shall be forwarded by the beekeeper to the State Apiarist within three days after placement. If colonies of bees are placed in unlisted locations, each unlisted location

shall constitute a separate violation of law. Ten days in advance of the shipment of the bees, the shipper must shall furnish the State Apiarist with a copy of a valid certificate of inspection signed by the ~~State Entomologist~~ state entomologist, apiary inspector, or other responsible official of the state of origin. This inspection certificate shall be based on an inspection within sixty days prior to shipment, and the percentage of inspection actually made must shall be acceptable to the State Apiarist. No inspection certificate ~~will~~ shall be accepted from another state where American ~~feui~~ breed fowlbrood was found during the inspection, even though the diseased colonies were destroyed. Where American ~~feui~~ breed fowlbrood was found in the apiary, the diseased colonies shall have been destroyed and at least thirty days must shall elapse before another inspection for the purpose of certification is made. If no disease is infectious or contagious diseases, parasites, or pests are found on this inspection, a certificate to that effect on the remaining colonies ~~will~~ shall be accepted.

Any beekeeper, dealer, firm, or organization who has been denied a permit to enter the state may appeal in writing within ten days for a hearing before the Director of Agriculture.

Any apiary not regularly attended in accordance with good beekeeping practice and which constitutes a disease, parasite, or pest hazard to the beekeeping industry may be considered an abandoned apiary and shall be subject to seizure by the State Apiarist. Any diseased bee equipment may be burned and the remainder may be sold at public auction, with proceeds after the cost of the sale are deducted to be returned to the former owner or his or her estate, except ; ~~PROVIDED~~; that before burning any such equipment, or causing the same to be sold, the State Apiarist, or his or her deputy, shall give the owner or person in charge thereof a written notice at least ten days prior to the date on which said the property will be burned or sold. Such notice shall be given by registered or certified mail or personally served upon the owner or person in charge of such property.

Any Nebraska beekeeper who keeps bees in a state adjoining Nebraska may upon securing a permit from the State Apiarist of Nebraska haul supers of honey from his or her bees in the adjoining state to his or her honey house in Nebraska for extracting purposes. The State Apiarist shall issue such permit only when he or she has received sufficient evidence from the ~~State~~

~~Apiarist~~ state apiarist or bee inspector in the adjoining state that no disease, parasite, or pest problem exists in such bees kept in that state. Such permit shall be carried in the truck with all loads of supers of honey hauled into this state for extracting.

Sec. 8. That section 81-2,173, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

81-2,173. Persons desiring to sell or ship bees or queen bees ~~commercially~~ in Nebraska shall make application in writing before ~~March~~ July 1 of each year to the Department of Agriculture for the inspection of their apiaries stating the number of colonies to be inspected and the kind of products to be disposed of sold or shipped, and any person failing to comply with this section shall be liable to charges for the expenses of a special trip by the officers or employees of the Department of Agriculture. It shall be the duty of the department as far as possible to cause to be inspected by its duly authorized agents, at least once each year, chiefly between April 1 and October 31, all apiaries known to it in the State of Nebraska, for the purpose of detecting any infectious or contagious bee diseases, parasites, or pests. If upon the inspection of any apiary as above provided, it shall appear that such apiary is apparently free from infectious or contagious bee diseases, parasites, or pests, of bees, the department shall, at the request of the owner, and upon the payment of a certificate fee as provided in section 81-2,174, give or send to the owner of the apiary, or the person in charge of it, a certificate executed by the department, stating the date of inspection and that it the apiary is apparently free from dangerously infectious or contagious bee diseases, parasites, or pests, and such certificate shall continue in force, unless revoked for cause as provided in section 81-2,176, until the annual inspection next following the date of inspection. It shall be unlawful for any person to sell or offer for sale or to remove or ship from any apiary or other premises, any bees, queen bees, used hives, or used beekeeping equipment until the same has been inspected and a certificate covering them has been granted by the department.

Sec. 9. That section 81-2,174, Revised Statutes Supplement, 1984, be amended to read as follows:

81-2,174. Upon issuing a certificate to a beekeeper after an inspection as provided in sections 81-2,172, and 81-2,173, and 81-2,175, the Department of

Agriculture shall collect therefor a certificate fee, which fee shall consist of a fixed amount of three five dollars plus a per colony, but not to exceed twenty-five dollars, and the actual expenses of the inspector, except that the payment of expenses shall not be required when the inspection is made in the course of the regular annual inspection certified charge. The charge shall be set by the director, but shall not exceed twenty cents per colony. The certification fee shall be paid prior to the issuance of health certificates by the Department of Agriculture. Beekeepers failing to notify the department of their intent to sell or ship bees prior to July 1 shall be liable to charges for the expenses of a special trip by the officers or employees of the Department of Agriculture as provided in section 81-2,173. All fees shall be deposited in the state treasury and by the State Treasurer credited to the State Apiary Cash Fund, which is hereby created. Any money in the State Apiary Cash Fund available for investment shall be invested by the state investment officer pursuant to sections 72-1237 to 72-1269.

Sec. 10. That section 81-2,176, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

81-2,176. If it is found that any certificate issued or approved by the Department of Agriculture (1) is being used in connection with bees, queen bees, or used beekeeping bee equipment (a) which have not been inspected, or (b) which are infected with any infectious or contagious disease, parasite, or pest, or (c) which are being sold or delivered without the prescribed treatment being observed or other precautionary measures prescribed by the department taken by the owner, or (2) is being used by persons other than the one to whom it was issued, without the permission of the department, the department may revoke or withdraw such certificate. The use of such certificate issued by the department after it has been revoked, and before such revocation has been withdrawn by the department, shall be unlawful and shall subject the holder thereof to the penalty prescribed for a violation of sections 81-2,165 to 81-2,180. Revocation or withdrawal of approval shall be through written notice of said the certificate.

Sec. 11. That section 81-2,177.01, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

81-2,177.01. Every person owning, leasing, or possessing colonies of bees shall, on or before the

first day of July in each calendar year, register ~~each~~ such bee ~~colony~~ colonies with the State Apiarist. Every person owning, leasing, or possessing more than four colonies of bees shall pay to the Department of Agriculture an annual registration fee. The fee shall consist of a fixed amount of seven dollars and fifty cents plus a per colony charge. The colony charge shall be set by the director, but shall not exceed twenty cents per colony. The registration fee shall be due July 1 of each year. A person moving colonies of bees into this state after the first day of July in any calendar year shall register such colonies with the State Apiarist within ten days after entering this state and pay the registration fee for such year. If a beekeeper fails to report and submit such fees by July 31 of each year, he or she shall pay, in addition to such fees, a penalty of twenty-five per cent of the fees due if such delinquent fees are paid on or before August 31 and a penalty of fifty per cent of the fees due if such delinquent fees are paid after August 31. All fees shall be deposited in the state treasury by the State Treasurer and credited to the State Apiary Cash Fund.

Each person registering a bee colony shall, at that time, provide the State Apiarist with the exact locations of the colony, describing the county, quarter section, township, and range wherein the colony is located.

Sec. 12. This act shall become operative on May 1, 1986.

Sec. 13. That original sections 81-2,165, 81-2,166 to 81-2,171, 81-2,173, 81-2,176, and 81-2,177.01, Reissue Revised Statutes of Nebraska, 1943, and section 81-2,174, Revised Statutes Supplement, 1984, and also section 81-2,175, Reissue Revised Statutes of Nebraska, 1943, are repealed.

Sec. 14. Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.