

LEGISLATIVE BILL 965

Approved by the Governor April 9, 1996

Introduced by Agriculture Committee: Dierks, 40, Chairperson; Cudaback, 36; Elmer, 44; Hudkins, 21; Schellpeper, 18; Schmitt, 41

AN ACT relating to the Pseudorabies Control and Eradication Act; to amend sections 54-2235 to 54-2237, 54-2244, 54-2254, 54-2260, 54-2263, 54-2277, 54-2282, 54-2287, 54-2288, 54-2290, 54-2294, 54-2296, and 54-2299, Reissue Revised Statutes of Nebraska; to change dates and requirements; to define and redefine terms; to provide exemptions; to provide for the payment for vaccine as prescribed; to change access provisions; to eliminate provisions on assessment of swine herds; to harmonize provisions; to repeal the original sections; and to outright repeal sections 54-2272 to 54-2275, Reissue Revised Statutes of Nebraska.

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

Section 1. Section 54-2235, Reissue Revised Statutes of Nebraska, is amended to read:

54-2235. Sections 54-2235 to 54-22,100 and section 7 of this act shall be known and may be cited as the Pseudorabies Control and Eradication Act.

Sec. 2. Section 54-2236, Reissue Revised Statutes of Nebraska, is amended to read:

54-2236. It is the intent of the Legislature to ~~implement~~ have a pseudorabies control and eradication program. The goal of the program is to eliminate pseudorabies from the livestock of the state by ~~implementing~~ implementing a process of ~~assessment, eradication, and surveillance.~~ assessment, eradication, and surveillance. The program shall be designed to ~~use the control procedures in place prior to October 1, 1990, under the Pseudorabies Control Act and administer such control procedures as a part of the Pseudorabies Control and Eradication Act, to begin the assessment of all swine herds in the state to determine where pseudorabies is found in the state, to begin the eradication of eradicate pseudorabies from all swine herds where pseudorabies is found, and to begin use surveillance to achieve and maintain pseudorabies-free conditions in the state.~~ use the control procedures in place prior to October 1, 1990, under the Pseudorabies Control Act and administer such control procedures as a part of the Pseudorabies Control and Eradication Act, to begin the assessment of all swine herds in the state to determine where pseudorabies is found in the state, to begin the eradication of eradicate pseudorabies from all swine herds where pseudorabies is found, and to begin use surveillance to achieve and maintain pseudorabies-free conditions in the state.

Sec. 3. Section 54-2237, Reissue Revised Statutes of Nebraska, is amended to read:

54-2237. For purposes of the Pseudorabies Control and Eradication Act, unless the context otherwise requires, the definitions found in sections 54-2238 to 54-2269 and section 7 of this act shall be used.

Sec. 4. Section 54-2244, Reissue Revised Statutes of Nebraska, is amended to read:

54-2244. Circle testing shall mean testing of a random sample of each swine herd located within one mile of the affected premises if in a Stage II status area and within one and one-half miles if in a Stage III status area.

Stage II and Stage III status areas are established pursuant to the Part III Program Stages and Requirements of the State-Federal-Industry Program Standards for Pseudorabies Eradication as approved by the United States Department of Agriculture, Animal and Plant Health Inspection Service, Veterinary Services, existing on March 1, 1993 in effect on the effective date of this act.

Sec. 5. Section 54-2254, Reissue Revised Statutes of Nebraska, is amended to read:

54-2254. Official test shall mean any testing procedure recognized for use in the diagnosis of pseudorabies by (1) the United States Department of Agriculture and existing as of March 1, 1993, in 9 C.F.R. part 85, in effect on the effective date of this act, or (2) the department in rules and regulations adopted and promulgated pursuant to the Pseudorabies Control and Eradication Act.

Sec. 6. Section 54-2260, Reissue Revised Statutes of Nebraska, is amended to read:

54-2260. Quarantine shall mean restriction of:
 (1) Movement imposed by the department on (a) livestock, including one or more livestock classified suspect, or positive, or exposed, (b) or a herd which is reasonably suspected of being infected or exposed, (c) a swine herd when the swine herd owner refuses testing of his or her swine herd as required by the Pseudorabies Control and Eradication Act, (d) swine imported into the state in violation of the Animal Importation Act, or (e) swine

imported into the state when a retest is required according to subdivision (4) of section 54-2290; and

(2) Use imposed by the department of the premises, vehicles, and equipment used for such livestock or herd.

Sec. 7. Stage shall mean a designation II, III, IV, or V assigned to a state or area of a state by the United States Department of Agriculture with respect to the prevalence of pseudorabies contained therein.

Sec. 8. Section 54-2263, Reissue Revised Statutes of Nebraska, is amended to read:

54-2263. Status swine herd shall mean a swine herd which has been given a title approved and assigned by the department according to the pseudorabies disease condition of the swine herd. Titles given to status swine herds shall include; but not be limited to: (1) qualified pseudorabies negative herd; (2) qualified negative gene-altered vaccinated herd; (3) pseudorabies monitored herd; (4) pseudorabies negative assessment herd; and (5) qualified pseudorabies negative offspring herd.

Sec. 9. Section 54-2277, Reissue Revised Statutes of Nebraska, is amended to read:

54-2277. Each owner or the authorized representative of the owner of a swine herd under quarantine shall file a swine herd cleanup plan with the department within thirty days after the date of issuance of the quarantine, ~~or, if such swine herd was in quarantine on March 20, 1991, within ninety days after March 20, 1991.~~ Each owner or the authorized representative of the owner of a quarantined swine herd shall follow as standards in the preparation of a swine herd cleanup plan the rules and regulations adopted and promulgated by the department based, as far as reasonably practical, upon the Herd Cleanup Plan Manual prepared by the Livestock Conservation Institute as such manual ~~exists~~ existed on January 1, 1991.

Sec. 10. Section 54-2282, Reissue Revised Statutes of Nebraska, is amended to read:

54-2282. The department shall establish criteria for classification of concentration points based on the degree of exposure to swine under quarantine or swine from herds which are not status swine herds and the practices in use at the concentration point points. Places where a breeder or an association of breeders of livestock assemble their livestock to be offered for sale and the livestock are sold under their own management are exempt from classification. Places where Future Farmers of America, 4-H groups, county fairs, or exhibitors conduct sales of livestock are also exempt from classification.

Sec. 11. Section 54-2287, Reissue Revised Statutes of Nebraska, is amended to read:

54-2287. (1) The department shall continually conduct a feeder and breeding swine testing program. Under the program, the department may require testing of both feeder and breeding swine whenever such swine are moving in commerce through concentration points or whenever feeder and breeding swine are sold at private treaty.

(2) The department shall assign a status swine herd title to those swine herds which meet the requirements developed by the department for such title. Such requirements shall include (a) the method and number of swine subjected to testing, (b) the procedure for herd additions, deletions, and movement into and out of such herds, and (c) a legal description of the land on which facilities are located to maintain a qualified pseudorabies negative herd, a qualified negative gene-altered vaccinated herd, a qualified pseudorabies negative growout herd, or a quarantined status swine herd.

(3) The department may cancel or suspend such the title of a pseudorabies monitored herd, a qualified pseudorabies negative herd, a qualified negative gene-altered vaccinated herd, or a qualified pseudorabies negative growout herd for failure to meet such the requirements of subsection (2) of this section. The department shall not renew such titles if the approved testing schedule is not adhered to.

Sec. 12. Section 54-2288, Reissue Revised Statutes of Nebraska, is amended to read:

54-2288. The department shall continually conduct a pseudorabies control and eradication program. Under the program, the department shall quarantine livestock and may require the testing of swine exposed to or reasonably suspected of having been exposed to infected livestock. Under the program, the department shall also quarantine livestock and require the testing of swine imported into Nebraska in violation of pseudorabies-related importation requirements existing in rules and regulations adopted and promulgated by the department. The department shall quarantine swine when a retest of such swine is a requirement of the pseudorabies importation rules and regulations. The department may prohibit the addition of swine into

affected or exposed swine herds.

It shall be unlawful for any person to fail to test or to remove any livestock which have been placed in quarantine from the place of quarantine until such quarantine is released by the department except authorized movement for slaughter or other movement as authorized by the department.

Any person violating this section shall be guilty of a Class III misdemeanor for the first offense and a Class II misdemeanor for each subsequent offense.

Sec. 13. Section 54-2290, Reissue Revised Statutes of Nebraska, is amended to read:

54-2290. The department shall adopt and promulgate rules and regulations to aid in implementing the Pseudorabies Control and Eradication Act. The rules and regulations may include, but shall not be limited to, provisions governing:

(1) The conduct of the feeder and breeding swine testing program, including provisions governing: (a) When, where, how, by whom, and how often testing is to be done; (b) what swine are to be subjected to testing; (c) how and by whom results of testing are to be recorded; (d) by whom and to whom the results of the testing are to be reported; and (e) how, by whom, and for what purposes such results will be utilized;

(2) The conduct of the pseudorabies control and eradication program, including provisions governing: (a) When, where, how, by whom, and how often testing is to be done; (b) what swine are to be subjected to testing; (c) requirements of swine herd cleanup plans, including form, execution, contents, duration, amendments, and enforcement; (d) how and by whom results of testing are to be recorded; (e) by whom and to whom the results of the testing are to be reported; (f) how, by whom, and for what purposes such results will be utilized; and (g) assignment of and requirements for titles for status swine herds and the suspension, expiration, and cancellation of such titles;

(3) The conduct of surveillance in swine herds and at slaughter establishments and concentration points, including provisions governing: (a) When, where, how, by whom, and how often testing is to be done; (b) what swine and swine herds are to be subjected to testing; (c) how and by whom results of testing are to be recorded and reported; and (d) the use of the results of testing by the department;

(4) Importation of swine, including provisions governing: (a) Age, origin, entry, movement, and destination in the state; (b) when, where, how, by whom, and how often imported swine are to be subjected to testing; (c) what imported swine are to be subjected to testing; and (d) how testing results are to be recorded, reported, and utilized;

(5)(a) What constitutes a program area; (b) what epidemiological factors will be considered in determining the program area; and (c) when and for what purpose a program activity will be selected;

(6) The issuance and release of quarantines and the requirements regarding the handling, movement, and disposition of livestock under quarantine;

(7) The cleaning and disinfecting of affected premises, including provisions governing: (a) The materials to be used; (b) the procedures to be used; and (c) when such procedures are to be performed;

(8) The testing of livestock to detect pseudorabies, including provisions governing: (a) Which tests are to be deemed official tests; (b) by whom the testing is to be administered; (c) how the testing is to be conducted; (d) the reaction tolerances to be recognized; and (e) the classification of results as to negative, suspect, or positive. These rules and regulations shall be consistent with the best available scientific information relative to the control and eradication of pseudorabies;

(9) The pseudorabies vaccination program, including provisions governing: (a) The vaccines to be used; (b) the age of the swine to be vaccinated; (c) the effect of vaccination on the interpretation of test results; and (d) the reported sale and use of vaccine;

(10) The identification of swine subject to the act, including provisions governing: (a) Exposed and infected swine; (b) vaccinated swine; and (c) swine to be tested;

(11) Classification of concentration points, including provisions governing: (a) Use and time of use of common areas by swine from (i) a swine herd under quarantine, (ii) swine from a status swine herd, and (iii) swine from a herd which is not a status swine herd; (b) the degree of separation of the swine described in subdivisions (a)(i) through (iii) of this subdivision; and (c) purposes for which swine exit the concentration point;

(12) Criteria and restrictions for approved breeding facilities, approved feeding facilities, and restricted premises, including provisions governing: (a) Epidemiological investigation of the swine herd; (b) adjoining

land characteristics; (c) proximity of other livestock; (d) benefit of approved breeding facilities to the state; and (e) other factors which make approved breeding facilities, approved feeding facilities, or restricted premises detrimental to the livestock industry of the state;

(13) Random sampling of swine herds, including provisions governing: (a) When, where, how, by whom, and how often a random sample is to be used in testing swine herds; (b) when and for what purpose a random sample of a swine herd will be subjected to testing; (c) the number of feeder, breeding, and other swine in a particular status swine herd or in a swine herd which is not a status swine herd constituting a random sample to be subjected to testing; (d) the age of swine in a status swine herd and a swine herd which is not a status swine herd to be used as a random sample and subjected to testing; and (e) how testing results are to be recorded, reported, and utilized;

(14) Compliance with Part III Program Stages and Requirements of the State-Federal-Industry Program Standards for Pseudorabies Eradication as approved by the United States Department of Agriculture, Animal and Plant Health Inspection Service, Veterinary Services, existing on March 17, 1993 in effect on the effective date of this act;

(15) Compliance with 9 C.F.R. part 85, existing on March 17, 1993 in effect on the effective date of this act, for pseudorabies control and eradication;

(16) Administration of the pseudorabies control and eradication program subject to the availability of state funds;

(17) The assessment and collection of costs for services provided and expenses, not to exceed actual costs, incurred under the act;

(18) The preparation, maintenance, handling, filing, and disposition of records and reports by persons subject to the act concerning the vaccination, testing, or movement of swine;

(19) Program activities and cleanup testing under the act on which state funds, if appropriated and available, shall be used by the department and limitations on use of such state funds for testing and other activities under the act; and

(20) Any other areas deemed necessary by the department to effectively control and eradicate pseudorabies.

Sec. 14. Section 54-2294, Reissue Revised Statutes of Nebraska, is amended to read:

54-2294. In administering the Pseudorabies Control and Eradication Act, the agents and employees of the department shall have access to any premises where livestock may be for purposes of the pseudorabies surveillance testing program or when the department has probable reasonable cause to believe that infected or exposed livestock are present on the premises.

Sec. 15. Section 54-2296, Reissue Revised Statutes of Nebraska, is amended to read:

54-2296. (1) When testing is to be performed pursuant to the Pseudorabies Control and Eradication Act, the owner of the swine shall be responsible for gathering, confining, and restraining such swine for testing and for providing the necessary facilities and assistance.

(2) The department may provide state funds for certain activities or any portion thereof in connection with the implementation of the act to or on behalf of swine herd owners if funds for such activities or any portion thereof have been appropriated and are available. The department shall develop statewide priorities for the expenditure of state funds available for program activities.

(3) Part of such state funds may be used by the department to pay a portion of the cost of testing done by or for accredited veterinarians if such work is approved by the department. All of such testing shall be performed by or under the direct supervision of the accredited veterinarian, except that nothing in this subsection shall restrict an employee of the state or federal government in the performance of such employee's duties under the act or federal law.

(4) In administering the act and programs pursuant thereto, the department shall not pay for (a) testing done for change of ownership at private treaty or at concentration points, (b) costs of gathering, confining, and restraining swine subjected to testing or costs of providing necessary facilities and assistance, (c) the cost of vaccine, and (d) the cost of testing for assessment of swine herds pursuant to sections 54-2272 to 54-2276, and (e) the cost of testing to qualify or maintain a status swine herd.

Sec. 16. Section 54-2299, Reissue Revised Statutes of Nebraska, is amended to read:

54-2299. In administering the Pseudorabies Control and Eradication Act and conducting program activities authorized by the act, the department shall as far as reasonably practical conform its program activities to Part

III Program Stages and Requirements of the State-Federal-Industry Program Standards for Pseudorabies Eradication as approved by the United States Department of Agriculture, Animal and Plant Health Inspection Service, Veterinary Services, ~~existing on March 1, 1993 in effect on the effective date of this act.~~

Sec. 17. Original sections 54-2235 to 54-2237, 54-2244, 54-2254, 54-2260, 54-2263, 54-2277, 54-2282, 54-2287, 54-2288, 54-2290, 54-2294, 54-2296, and 54-2299, Reissue Revised Statutes of Nebraska, are repealed.

Sec. 18. The following sections are outright repealed: Sections 54-2272 to 54-2275, Reissue Revised Statutes of Nebraska.