

LEGISLATURE OF NEBRASKA
ONE HUNDRED THIRD LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 846

Introduced by Davis, 43; Bloomfield, 17; Johnson, 23; Schilz, 47;
Wallman, 30.

Read first time January 13, 2014

Committee: Agriculture

A BILL

1 FOR AN ACT relating to agriculture; to amend sections 54-172,
2 54-1,110, 54-1,111, and 54-415, Reissue Revised Statutes
3 of Nebraska, section 54-1,108, Revised Statutes
4 Cumulative Supplement, 2012, and sections 54-170 and
5 54-171, Revised Statutes Supplement, 2013; to create the
6 brand inspection service area for purposes of brand
7 inspection fees and estray disposition; to change
8 provisions relating to livestock bills of sale; to
9 harmonize provisions; and to repeal the original
10 sections.

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

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

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

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

7 54-171 For purposes of the Livestock Brand Act, the
8 definitions found in sections 54-172 to 54-190 and section 3 of this
9 act shall be used.

10 Sec. 3. Brand inspection service area means all counties
11 and areas of counties contiguous with the brand inspection area
12 designated by section 54-1,109.

13 Sec. 4. Section 54-172, Reissue Revised Statutes of
14 Nebraska, is amended to read:

15 54-172 Bill of sale means a formal instrument for the
16 conveyance or transfer of title to livestock or other goods and
17 chattels. The bill of sale shall state the buyer's name and address,
18 the date of transfer, the guarantee of title, the number of livestock
19 transferred, the sex of such livestock, the brand or brands, the
20 location of the brand or brands or a statement to the effect that the
21 animal is unbranded, and the name and address of the seller. The
22 signature of the seller shall be attested by at least one witness or
23 acknowledged by a notary public or by some other officer authorized
24 by state law to take acknowledgments. For any conveyance or transfer
25 of title to cattle subject to assessment imposed pursuant to the

1 federal Beef Promotion and Research Order, 7 C.F.R. part 1260, for
2 which the purchaser is the collecting person pursuant to 7 C.F.R.
3 1260.311 for purposes of collecting and remitting such assessment,
4 the bill of sale shall include a notation of the amount the purchaser
5 collected from the seller or deducted from the sale proceeds for the
6 assessment. A properly executed bill of sale means a bill of sale
7 that is provided by the seller and received by the buyer.

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

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

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

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

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

14 (3) Any person who has reason to believe that cattle were
15 shipped erroneously due to an inspection error during a brand
16 inspection may request a reinspection. The person making such request
17 shall be responsible for the expenses incurred as a result of the
18 reinspection unless the results of the reinspection substantiate the
19 claim of inspection error, in which case the brand committee shall be
20 responsible for the reinspection expenses.

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

23 54-1,110 (1) Except as provided in subsections (2) and
24 (3) of this section, no person shall move, in any manner, cattle from
25 a point within the brand inspection area to a point outside the brand

1 inspection area unless such cattle first have a brand inspection by
2 the Nebraska Brand Committee and a certificate of inspection is
3 issued. A copy of such certificate shall accompany the cattle and
4 shall be retained by all persons moving such cattle as a permanent
5 record.

6 (2) Cattle in a registered feedlot registered under
7 sections 54-1,120 to 54-1,122 or a registered dairy registered under
8 sections 54-1,122.01 and 54-1,122.02 are not subject to the brand
9 inspection of subsection (1) of this section. Possession by the
10 shipper or trucker of a shipping certificate from the registered
11 feedlot or registered dairy constitutes compliance if the cattle
12 being shipped are as represented on such shipping certificate.

13 (3) If the line designating the brand inspection area
14 divides a farm or ranch or lies between noncontiguous parcels of land
15 which are owned or operated by the same cattle owner or owners, a
16 permit may be issued, at the discretion of the Nebraska Brand
17 Committee, to the owner or owners of cattle on such farm, ranch, or
18 parcels of land to move the cattle in and out of the brand inspection
19 area without inspection. If the line designating the brand inspection
20 area lies between a farm or ranch and nearby veterinary medical
21 facilities, a permit may be issued, at the discretion of the brand
22 committee, to the owner or owners of cattle on such farm or ranch to
23 move the cattle in and out of the brand inspection area without
24 inspection to obtain care from the veterinary medical facilities. The
25 brand committee shall issue initial permits only after receiving an

1 application which includes an application fee established by the
2 brand committee which shall not be more than fifteen dollars. The
3 brand committee shall mail all current permitholders an annual
4 renewal notice, for January 1 renewal, which requires a renewal fee
5 established by the brand committee which shall not be more than
6 fifteen dollars. If the permit conditions still exist, the cattle
7 owner or owners may renew the permit.

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

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

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

20 54-1,111 (1) Except as provided in subsection (2) of this
21 section, no person shall sell or trade any cattle located within the
22 brand inspection area, nor shall any person buy or purchase any such
23 cattle unless the cattle have been inspected for brands and ownership
24 and a certificate of inspection or brand clearance has been issued by
25 the Nebraska Brand Committee. Any person selling such cattle shall

1 present to the brand inspector a properly executed bill of sale,
2 brand clearance, or other satisfactory evidence of ownership which
3 shall be filed with the original certificate of inspection in the
4 records of the brand committee. Any time a brand inspection is
5 required by law, a brand investigator or brand inspector may transfer
6 evidence of ownership of such cattle from a seller to a ~~buyer~~
7 purchaser by issuing a certificate of inspection.

8 (2) A brand inspection is not required:

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

12 (b) For cattle of a registered dairy registered under
13 sections 54-1,122.01 and 54-1,122.02 shipped for direct slaughter or
14 sale on any terminal market;

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

20 (d) When the change of ownership of cattle is a change in
21 form only and the surviving interests are in the exact proportion as
22 the original interests of ownership. When there is a change of
23 ownership described in subdivision (2)(c) or (d) of this section, an
24 affidavit, on a form prescribed by the Nebraska Brand Committee,
25 signed by the transferor and stating the nature of the transfer and

1 the number of cattle involved and the brands presently on the cattle,
2 shall be filed with the brand committee;

3 (e) For cattle sold or purchased for educational or
4 exhibition purposes or other recognized youth activities if a
5 properly executed bill of sale is exchanged and presented upon
6 demand. Educational or exhibition purpose means cattle sold or
7 purchased for the purpose of being fed, bred, managed, or tended in a
8 program designed to demonstrate or instruct in the use of various
9 feed rations, the selection of individuals of certain physical
10 conformation or breeds, the measurement and recording of rate of gain
11 in weight or fat content of meat or milk produced, or the preparation
12 of cattle for the purpose of exhibition or for judging as to quality
13 and conformation;

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

17 (g) For purebred cattle raised by the seller and
18 individually registered with an organized breed association if a
19 properly executed bill of sale is exchanged and presented upon
20 demand.

21 Sec. 8. Section 54-415, Reissue Revised Statutes of
22 Nebraska, is amended to read:

23 54-415 Any person taking up an estray within the brand
24 inspection area or brand inspection service area shall report the
25 same within seven days thereafter to the Nebraska Brand Committee.

1 Any person taking up an estray in any other area of the state shall
2 report the same, ~~if within the brand inspection area, or to the~~
3 county sheriff of the county where the estray was taken up, if not
4 ~~within the brand inspection area.~~ If the animal is determined to be
5 an estray by a representative of the Nebraska Brand Committee or the
6 county sheriff, as the case may be, such animal shall, as promptly as
7 may be practicable, be sold through the most convenient livestock
8 auction market. The proceeds of such sale, after deducting the
9 selling expenses, shall be paid over to the Nebraska Brand Committee
10 to be placed in the estray fund identified in section 54-1,118, if
11 such estray was taken up within the brand inspection area or brand
12 inspection service area, and otherwise to the treasurer of the county
13 in which such estray was taken up. During the time such proceeds are
14 impounded, any person taking up such estray may file claim with the
15 Nebraska Brand Committee or the county treasurer, as the case may be,
16 for the expense of feeding and keeping such estray while in his or
17 her possession. When such claim is filed it shall be the duty of the
18 Nebraska Brand Committee or the county board, as the case may be, to
19 decide on the validity of the claim so filed and allow the claim for
20 such amount as may be deemed equitable. When the estray ~~originates is~~
21 taken up within the brand inspection area or brand inspection service
22 area, such proceeds shall be impounded for one year, unless ownership
23 is determined sooner by the Nebraska Brand Committee, and if
24 ownership is not determined within such one-year period, the proceeds
25 shall be paid into the permanent school fund, less the actual

1 expenses incurred in the investigation and processing of the estray
2 fund. Any amount deducted as actual expenses incurred shall be
3 deposited in the Nebraska Brand Inspection and Theft Prevention Fund.
4 When the estray is ~~located~~ taken up outside the brand inspection area
5 or brand inspection service area and ownership cannot be determined
6 by the county board, the county board shall then order payment of the
7 balance of the sale proceeds less expenses, to the permanent school
8 fund. If the brand committee or the county board determines ownership
9 of an estray sold in accordance with this section by means of
10 evidence of ownership other than the owner's recorded Nebraska brand,
11 an amount not to exceed the actual investigative costs or expenses
12 may be deducted from the proceeds of the sale. Any person who
13 violates this section is guilty of a Class II misdemeanor. The
14 definitions found in sections 54-172 to 54-190 apply to this section.

15 Sec. 9. Original sections 54-172, 54-1,110, 54-1,111, and
16 54-415, Reissue Revised Statutes of Nebraska, section 54-1,108,
17 Revised Statutes Cumulative Supplement, 2012, and sections 54-170 and
18 54-171, Revised Statutes Supplement, 2013, are repealed.