

ENGROSSED LEGISLATIVE BILL 646

Introduced by Ibach, 44; Clouse, 37; DeKay, 40; Hansen, 16; Holdcroft, 36;
Kauth, 31; Lonowski, 33; Raybould, 28; Storm, 23.

A BILL FOR AN ACT relating to the Livestock Brand Act; to amend sections 54-170, 54-171, 54-1,108, 54-1,111, and 54-1,120, Reissue Revised Statutes of Nebraska; to define brand committee; to change fees; to provide an exemption from brand inspection requirements; to eliminate obsolete provisions; to harmonize provisions; and to repeal the original sections.

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

Section 1. Section 54-170, Reissue Revised Statutes of Nebraska, is amended to read:

54-170 Sections 54-170 to 54-1,131 and section 3 of this act shall be known and may be cited as the Livestock Brand Act.

Sec. 2. Section 54-171, Reissue Revised Statutes of Nebraska, is amended to read:

54-171 For purposes of the Livestock Brand Act, the definitions found in sections 54-171.01 to 54-190 and section 3 of this act shall be used.

Sec. 3. Brand committee means the Nebraska Brand Committee.

Sec. 4. Section 54-1,108, Reissue Revised Statutes of Nebraska, is amended to read:

54-1,108 (1)(a) All physical inspections for brands provided for in the Livestock Brand Act or section 54-415 shall be from sunrise to sundown or during such other hours and under such conditions as the Nebraska Brand Committee determines. The brand committee shall assess a fifty-dollar late notice surcharge if a request for a physical inspection is made less than forty-eight hours prior to the date of inspection.

(b) A physical inspection shall be required when brands applied by hot iron or freeze branding methods are the exclusive means of ownership identification and in all other cases that do not qualify for electronic inspection as provided in subsection (2) of this section.

(c)(i) A fee established by the Nebraska Brand Committee, of not more than one dollar and fifty cents per head shall be charged for all cattle inspected in accordance with the Livestock Brand Act or section 54-415, inspected within the brand inspection area or brand inspection service area by court order, inspected at the request of any bank, credit agency, or lending institution with a legal or financial interest in such cattle, or inspected at the request of a neighboring livestock owner with missing cattle.

(ii) The 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.

(iii) For inspections not described in subdivision (1)(c)(ii) of this section, the person requesting the inspection of such cattle is responsible for the inspection fee.

(iv) Brand inspections requested by either a purchaser or seller of cattle located within the brand inspection service area shall be provided upon the same terms and charges as brand inspections performed within the brand inspection area.

(v) If stray cattle are identified as a result of the inspection, such cattle shall be processed in the manner provided by section 54-415.

(d) A surcharge, as established by the brand committee, up to twenty dollars, may be charged to cover travel expenses incurred by the brand inspector per inspection location when performing brand inspections. The surcharge shall be collected by the brand inspector and paid by the person requesting the inspection or the person required by law to have the inspection.

(e) For physical inspections performed outside of the brand inspection area that are not provided for in subdivision (c) of this subsection, the fee shall be the inspection fee established in such subdivision plus a fee to cover the actual expense of performing the inspection, including mileage at the rate established by the Department of Administrative Services and an hourly rate, not to exceed thirty dollars per hour, for the travel and inspection time incurred by the brand committee to perform such inspection. The brand committee

shall charge and collect the actual expense fee. Such fee shall apply to inspections performed outside the brand inspection area as part of an investigation into known or alleged violations of the Livestock Brand Act and shall be charged against the person committing the violation.

(2)(a) The brand committee may provide for electronic inspection of enrolled cattle identified by approved nonvisual identifiers pursuant to subsection (5) of section 54-199. The brand committee shall establish procedures for enrollment of such cattle with the brand committee which shall include providing acceptable certification or evidence of ownership. Electronic inspection shall not require agency employees to be present, except that random audits shall occur.

(b) A fee established by the brand committee of not more than one dollar and fifty cents per head shall be charged for all cattle subjected to electronic inspection in accordance with the Livestock Brand Act or section 54-415.

(c) A certified bill of sale for sale of calves shall be provided to qualified dairies once the required information is electronically transferred to the brand committee on calves under thirty days of age. The fee shall be the same as for an electronic inspection under subdivision (2)(b) of this section.

(d) A certified transportation permit shall be provided to qualified dairies after the required information is electronically transferred to the brand committee on calves under thirty days of age which are moved out of the inspection area. The fee shall be the same as for an electronic inspection under subdivision (2)(b) of this section.

(e) On or before December 1, 2021, the brand committee shall report to the Legislature any actions taken or necessary for implementing electronic inspection authorized by this subsection, including personnel and other resources utilized to support electronic inspection, how the brand committee's information technology capabilities are utilized to support electronic inspection, a listing of approved nonvisual identifiers, the requirements for enrolling cattle identified by approved nonvisual identifiers, current and

anticipated utilization of electronic inspection by the livestock industry, and the fees required to recover costs of performing electronic inspection.

(3) Any person who has reason to believe that cattle were shipped erroneously due to an inspection error during a 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. 5. Section 54-1,111, Reissue Revised Statutes of Nebraska, is amended to read:

54-1,111 (1) Except as provided in subsection (2) of this section, no person shall sell or trade any cattle located within the brand inspection area, nor shall any person buy or purchase any such cattle unless the cattle have been inspected for evidence of ownership and a certificate of inspection or brand clearance has been issued by the Nebraska Brand Committee. Any person 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 certificate of inspection in the records of the brand committee. Any time a brand inspection is required by law, a brand investigator or brand inspector may transfer evidence of ownership of such cattle from a seller to a purchaser by issuing a certificate of inspection.

(2) A brand inspection is not required:

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

(b) For cattle that are:

(i) 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; or

(ii) Transferred to a limited liability company in which membership is

limited to the husband, wife, children, or grandchildren of the transferor and there is no consideration paid for the transfer other than a membership interest in the limited liability company;

(c) 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) (b) or (c) 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 brand committee;

(d) For cattle sold or purchased for educational or exhibition purposes or other recognized youth activities if a properly executed bill of sale is exchanged and presented upon demand. Educational or exhibition purpose means 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 preparation of cattle for the purpose of exhibition or for judging as to quality and conformation;

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

(f) For seedstock cattle raised by the seller and individually registered with an organized breed association if a properly executed bill of sale is exchanged and presented upon demand; and

(g) For cattle shipped to or from a qualified dairy.

(3) A violation of this section is an infraction. A peace officer shall have the authority to write a citation, which shall be waivable, to offenders in violation of this section. A fine under this section shall not exceed two hundred dollars per head for each offense. Violations shall be charged in the county in which the offense occurred.

Sec. 6. Section 54-1,120, Reissue Revised Statutes of Nebraska, is amended

to read:

54-1,120 (1)(a) Any person who operates a cattle feeding operation located within the brand inspection area may apply to the brand committee for registration as a registered feedlot. The application form shall be prescribed by the brand committee and shall be made available by the executive director of the brand committee for this purpose upon written request. If the applicant is an individual, the application shall include the applicant's social security number. After the brand committee has received a properly completed application, an agent of the brand committee shall within thirty days make an investigation to determine if the following requirements are satisfied:

(i) The operator's feedlot shall be permanently fenced; and

(ii) The operator shall commonly practice feeding cattle to finish for slaughter.

(b) If the application is satisfactory, and upon payment of an initial registration fee by the applicant, the brand committee shall issue a registration number and registration certificate valid for one year unless rescinded for cause. If the registration is rescinded for cause, any registration fee shall be forfeited by the applicant.

(c)(i) The initial registration fee and the annual renewal registration fee for a registered feedlot shall be an amount that is fifty cents multiplied by the maximum livestock capacity of the registered feedlot.

(ii) The annual renewal registration fee shall be paid on an annual basis.

(2) The brand committee may adopt and promulgate rules and regulations for the operation of registered feedlots to assure that brand laws are complied with, that registered feedlot shipping certificates are available, and that proper records are maintained. Violation of sections 54-1,120 to 54-1,122 subjects the operator to revocation or suspension of the feedlot registration issued. Sections 54-1,120 to 54-1,122 shall not be construed as prohibiting the operation of nonregistered feedlots.

(3) Registered feedlots are subject to inspection at any reasonable time at the discretion of the brand committee and its authorized agents, and the

operator shall show cattle purchase records or certificates of inspection to cover all cattle in his or her feedlot. Cattle having originated from such registered feedlots may from time to time, at the discretion of the committee, be subject to a spot-check inspection and audit at destination to enable the brand committee to assure satisfactory compliance with the brand laws by the registered feedlot operator.

(4) The operator of a registered feedlot shall keep cattle inventory records. A form for such purpose shall be prescribed by the brand committee. The brand committee and its employees may from time to time make spot checks and audits of the registered feedlots and the records of cattle on feed in such feedlots.

(5) The brand committee may rescind the registration of any registered feedlot operator who fails to cooperate or violates the laws or rules and regulations of the brand committee relating to registered feedlots.

Sec. 7. Original sections 54-170, 54-171, 54-1,108, 54-1,111, and 54-1,120, Reissue Revised Statutes of Nebraska, are repealed.

PRESIDENT OF THE LEGISLATURE

*THIS IS TO CERTIFY that the within LB 646 was passed by the One Hundred Ninth
Legislature of Nebraska at its First Session on the day
of 20.....*

CLERK OF THE LEGISLATURE

Approved:

..... 20....., o'clockM.

GOVERNOR