

LEGISLATIVE BILL 835

Approved by the Governor March 19, 2004

Introduced by Kremer, 34

AN ACT relating to agriculture; to amend sections 81-2,165, 81-2,166, 81-2,167, 81-2,170, 81-2,171, 81-2,173, and 81-2,174, Reissue Revised Statutes of Nebraska; to change and eliminate provisions of the Nebraska Apiary Act; to repeal the original sections; and to outright repeal sections 81-2,172 and 81-2,177.01, Reissue Revised Statutes of Nebraska.

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

Section 1. Section 81-2,165, Reissue Revised Statutes of Nebraska, is amended to read:

81-2,165. The department ~~shall~~ is authorized to enforce the Nebraska Apiary Act. The director may make or cause to be made all necessary examinations and inspections and adopt and promulgate such rules, regulations, and orders as may be necessary to carry out the duties of the department under the act.

The department within its authority and funding appropriated to carry out the purposes of the act may 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 fulfill its duties under the act.

Sec. 2. Section 81-2,166, Reissue Revised Statutes of Nebraska, is amended to read:

81-2,166. For purposes of the Nebraska Apiary Act, unless the context otherwise requires:

(1) 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;

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

(3) Bee equipment shall mean hives, supers, frames, veils, gloves, or any other apparatus, tool, machine, vehicle, or 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;

(4) Beekeeping shall mean the moving, raising, and producing of bees, beeswax, and honey which is an agricultural pursuit;

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

(6) Colony shall mean the aggregate of worker bees, drones, the queen, and developing young bees living together as a family unit in a hive or other dwelling;

(7) Department shall mean the Department of Agriculture;

(8) Director shall mean the Director of Agriculture or his or her designated representative, employee, or authorized agent;

(9) Disease shall mean American foulbrood, European foulbrood, chalkbrood, sacbrood, paralysis, or any other abnormal condition of egg, larva, pupa, or adult stages of bees;

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

(11) 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 is used or employed as a domicile for bees;

(12) ~~Nucleus~~ Nuclei shall mean a small mass of bees and combs of brood used in forming a new colony;

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

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

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

Sec. 3. Section 81-2,167, Reissue Revised Statutes of Nebraska, is amended to read:

81-2,167. In order to carry out its duties under the Nebraska

Apiary Act or any rule, regulation, or order made pursuant to the act, the officers and employees of the department may at all reasonable times enter upon any public or private premises for the purpose of inspection for the existence of or for treatment or destruction of any contagious or infectious diseases, parasites, or pests of bees. ~~or brood.~~ They shall have free access to all apiaries, structures, bee equipment, or premises where bees, honey, 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 diseases, parasites, or pests of bees. They may stop pedestrians, motor cars, and vehicles when they are likely to be carrying, contrary to the act or any rule, regulation, or order established pursuant to the act, any bees, comb, used bee equipment, or anything else which is capable of transmitting 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, honey house, 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, after being notified by the department of the insanitary conditions, shall place such apiary, 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 apiary, honey house, building, or container failing to obey such notice shall be guilty of a misdemeanor in violation of the act 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. Section 81-2,170, Reissue Revised Statutes of Nebraska, is amended to read:

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 diseases, parasites, or pests or to expose any diseased or parasitized colony or infected hive or 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 contagious or infectious diseases, parasites, or pests shall at once report such fact to the department stating all facts known to him or her with reference to the contagion or infection. When it has been determined that contagious or infectious diseases, parasites, or pests have been found in an apiary, such apiary may be quarantined by the department until released by the department. Whenever American foulbrood is found in the apiary, no colony, honey, or bee equipment of any kind shall be removed from the apiary unless under special written permit issued by the department. 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 department may, after all known 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 department may refuse to issue an entry permit for any colonies of bees or used bee equipment of the person involved during 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 the Nebraska Apiary Act. Beekeepers affected shall be notified in writing of the quarantine and shall also be notified in writing when the quarantine is released.

Sec. 5. Section 81-2,171, Reissue Revised Statutes of Nebraska, is amended to read:

81-2,171. ~~(1) It shall be unlawful for any beekeeper, transportation company, or other person to bring into this state any bees on comb, used hives, or other used bee equipment from any other states or countries except under special permits. Common carriers may transport bees and 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 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 apiary regulatory official of the state, territory, district, or country showing that such bees were inspected and found or believed to be free from any infectious or contagious diseases, parasites, or pests. Colonies of bees shall also be accompanied by a written permit from the department 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 may inspect or reinspect such colonies of bees and, if infectious or contagious diseases, parasites, or pests are found, subject it to proper treatment or return it to the consignor at his or her expense.

(2) When the department finds contagious or infectious diseases, parasites, or pests in colonies of bees shipped from another state under official certificates of inspection, the department thereafter may refuse to recognize the certificate of such state until such time as the department receives satisfactory information that its inspection service has again become reliable.

(3) Any beekeeper or other person who desires to move colonies of bees into Nebraska shall apply to the department for a written entry permit at least sixty days prior to the date of entering the state, except that the director may waive the sixty-day requirement upon request when an entry permit is sought for ten colonies or less by a beekeeper who intends to establish Nebraska as his or her new state of residence. A statement 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 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.

(4) 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 or the department may 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, 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 shall be met:

(a) A statement of facts from the state apiary regulatory official of the state of origin shall be furnished giving the past three years' disease history of the apiary or apiaries from which such colonies of bees are to originate.

(i) A permit may be denied even though an inspection within the last nine months shows the bees to be free of 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 hidden diseases, parasites, or pests.

(ii) 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.

(b) A list of beeyard locations where the colonies of bees can be inspected after they are brought into the state 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 department 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 shall furnish the department with a copy of a valid certificate of inspection signed by the state apiary regulatory official of the state of origin. This inspection certificate shall be based on an inspection by the state apiary regulatory official within nine

months prior to shipment, and the percentage of inspection actually made shall be acceptable to the department. No inspection certificate shall be accepted from another state when American foulbrood was found during the inspection unless all diseased colonies were destroyed. When the percentage of colonies infected with American foulbrood is three percent or less of the colonies in the apiary, certification shall be accepted as soon as the diseased colonies are destroyed. When the percentage of colonies infected with American foulbrood is greater than three percent of the colonies in the apiary, the diseased colonies shall be destroyed and at least thirty days shall elapse before another inspection for the purpose of certification is made. If no infectious or contagious diseases, parasites, or pests are found on this inspection, a certificate to that effect on the remaining colonies shall be accepted.

(5) Any beekeeper or other person who has been denied a permit to enter the state may appeal in writing within ten days for a hearing before the director.

(6) Open feeding of syrup or honey to bees which allows bees from more than one colony to have access to such syrup or honey shall be unlawful.

(7) 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 may be seized by the department. 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 that before burning any such equipment or causing the same to be sold, the department shall give the owner or person in charge thereof a written notice at least ten days prior to the date on which 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.

(8) Any Nebraska beekeeper who keeps bees in a state adjoining Nebraska may upon securing a permit from the department 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 department shall issue such permit when, at the director's discretion, the department has received sufficient evidence from the 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. 6. Section 81-2,173, Reissue Revised Statutes of Nebraska, is amended to read:

81-2,173. (1) The department shall issue certificates stating that an apiary is apparently free from infectious or contagious diseases, parasites, or pests after inspecting the apiary when such apiary is apparently free from such diseases, parasites, and pests and upon payment of the certificate fee provided for in section 81-2,174. Such certificate shall also state the date of inspection and shall continue in force for one year unless revoked for cause.

(2) Any person may request an inspection for his or her apiary in order to obtain a certificate.

(3) Application for a certificate shall be made in writing before July 1 of each year to the department and shall state the number of colonies to be inspected and the kind of products to be sold or shipped. Any application received after July 1 of each year shall make the applicant liable for the expense of a special trip by the inspector in addition to the certificate fee provided for in section 81-2,174.

Sec. 7. Section 81-2,174, Reissue Revised Statutes of Nebraska, is amended to read:

81-2,174. Upon issuing a certificate to a beekeeper after an inspection as provided in sections ~~81-2,172~~ and section 81-2,173, the department shall collect a certificate fee as set forth in rules and regulations adopted and promulgated pursuant to the Nebraska Apiary Act not to exceed the following amounts: Two hundred dollars for the inspection of two hundred fifty colonies or less; two hundred fifty dollars for the inspection of two hundred fifty-one through five hundred colonies; three hundred fifty dollars for the inspection of five hundred one through one thousand colonies; and four hundred fifty dollars for the inspection of more than one thousand colonies. The certification fee shall be paid prior to the issuance of certificates by the department. ~~Beekeepers failing to notify the department of their intent to sell or ship bees prior to July 1 shall also be liable to charges for the expenses of a special trip by the officers or employees of the department as provided in section 81-2,173.~~ All fees and any gifts, grants, or donations from any source shall be remitted to the State Treasurer for

credit to the State Apiary Cash Fund which is hereby created. The fund shall be used to defray the expenses of administering the Nebraska Apiary Act. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Sec. 8. Original sections 81-2,165, 81-2,166, 81-2,167, 81-2,170, 81-2,171, 81-2,173, and 81-2,174, Reissue Revised Statutes of Nebraska, are repealed.

Sec. 9. The following sections are outright repealed: Sections 81-2,172 and 81-2,177.01, Reissue Revised Statutes of Nebraska.