

LEGISLATURE OF NEBRASKA
ONE HUNDRED SEVENTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 744

Introduced by Erdman, 47; Brewer, 43.

Read first time January 05, 2022

Committee: Agriculture

1 A BILL FOR AN ACT relating to the livestock; to amend sections 54-170,
2 54-171, 54-172, 54-173, 54-176, 54-179, 54-182, 54-189, 54-199,
3 54-1,108, 54-1,111, 54-1,122, and 54-415, Reissue Revised Statutes
4 of Nebraska; to define and redefine terms; to change provisions
5 under the Livestock Brand Act relating to approved nonvisual
6 identifiers, physical inspections, electronic inspections, powers
7 and duties of the Nebraska Brand Committee, and fees; to eliminate
8 terms, obsolete provisions, and a penalty; to harmonize provisions;
9 to repeal the original sections; to outright repeal sections
10 54-171.01, 54-179.03, 54-179.04, 54-187.01, and 54-1,124.01, Reissue
11 Revised Statutes of Nebraska; and to declare an emergency.
12 Be it enacted by the people of the State of Nebraska,

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

3 54-170 Sections 54-170 to 54-1,131 and section 5 of this act shall
4 be known and may be cited as the Livestock Brand Act.

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

7 54-171 For purposes of the Livestock Brand Act, the definitions
8 found in sections 54-172 54-171.01 to 54-190 and section 5 of this act
9 shall be used.

10 Sec. 3. Section 54-172, Reissue Revised Statutes of Nebraska, is
11 amended to read:

12 54-172 Bill of sale means a formal instrument for the conveyance or
13 transfer of title to livestock or other goods and chattels. The bill of
14 sale shall state the purchaser's name and address, the date of transfer,
15 the guarantee of title, the number of livestock transferred, the sex of
16 such livestock, the brand or brands, the location of the brand or brands
17 or a statement to the effect that the animal is unbranded, ~~any approved~~
18 ~~nonvisual identifiers,~~ and the name and address of the seller. The
19 signature of the seller shall be attested by at least one witness or
20 acknowledged by a notary public or by some other officer authorized by
21 state law to take acknowledgments. For any conveyance or transfer of
22 title to cattle subject to assessment imposed pursuant to the federal
23 Beef Promotion and Research Order, 7 C.F.R. part 1260, for which the
24 purchaser is the collecting person pursuant to 7 C.F.R. 1260.311 for
25 purposes of collecting and remitting such assessment, the bill of sale
26 shall include a notation of the amount the purchaser collected from the
27 seller or deducted from the sale proceeds for the assessment. A properly
28 executed bill of sale means a bill of sale that is provided by the seller
29 and received by the purchaser.

30 Sec. 4. Section 54-173, Reissue Revised Statutes of Nebraska, is
31 amended to read:

1 54-173 Brand clearance means the documentary evidence of ownership
2 that is issued and signed by a brand inspector and given to persons who
3 have legally purchased cattle at a livestock auction or sale where a
4 brand inspection service is provided. The brand clearance shall give the
5 name and address of sale or auction where issued, the name of purchaser,
6 the number and sex of cattle, the any brands, if any, and the location of
7 ~~any brands on the cattle, and any approved nonvisual identifiers.~~

8 Sec. 5. Brand inspection means an inspection for purposes of the
9 Livestock Brand Act performed by an employee of the Nebraska Brand
10 Committee physically present at the location of the inspected animals to
11 verify ownership through visual observation of brands or other
12 distinguishing markings and physical characteristics of the livestock and
13 examination of any associated documentary or other evidence of ownership.

14 Sec. 6. Section 54-176, Reissue Revised Statutes of Nebraska, is
15 amended to read:

16 54-176 Brand inspector means a person employed by the Nebraska Brand
17 Committee, or some other brand inspection agency, inside or outside of
18 the State of Nebraska, for the purpose of identifying brands, marks, or
19 other identifying characteristics of livestock ~~or approved nonvisual~~
20 ~~identifiers~~ to determine the existence of such brands, marks, or
21 identifying characteristics ~~or identifiers~~ and from such determinations
22 attempt to establish correct and true ownership of such livestock, and
23 generally carry out the provisions and enforcement of all laws pertaining
24 to brands, brand inspection, ~~physical inspection, electronic inspection,~~
25 and associated livestock laws.

26 Sec. 7. Section 54-179, Reissue Revised Statutes of Nebraska, is
27 amended to read:

28 54-179 Certificate of inspection means the official document issued
29 and signed by a brand inspector authorizing (1) movement of livestock
30 from a point of origin within the brand inspection area to a destination
31 either inside or outside of the brand inspection area or outside of this

1 state, (2) slaughter of livestock as specified on such certificate, or
2 (3) the change of ownership of livestock as specified on such
3 certificate. A certificate of inspection shall designate, as needed, the
4 name of the shipper, consignor, or seller of the livestock, the purchaser
5 or consignee of the livestock, the destination of the livestock, the
6 vehicle license number or carrier number, the miles driven by an
7 inspector to perform inspection, the amount of inspection fees collected,
8 the number and sex of the livestock to be moved or slaughtered, the any
9 brands, if any, on the livestock, ~~any approved nonvisual identifiers,~~ and
10 the brand owner. A certificate of inspection shall be construed and is
11 intended to be documentary evidence of ownership on all livestock covered
12 by such document.

13 Sec. 8. Section 54-182, Reissue Revised Statutes of Nebraska, is
14 amended to read:

15 54-182 Investigator means an employee of the Nebraska Brand
16 Committee who is also a deputy state sheriff and has the duty,
17 responsibility, and authority to enforce all state statutes pertaining to
18 brands, brand inspection, ~~physical inspection, electronic inspection,~~ and
19 associated livestock laws. An investigator is also responsible for the
20 investigation of all problems associated with brands, brand inspection,
21 and associated livestock enforcement problems.

22 Sec. 9. Section 54-189, Reissue Revised Statutes of Nebraska, is
23 amended to read:

24 54-189 Satisfactory evidence of ownership consists of the brands,
25 tattoos, or marks on the livestock; ~~approved nonvisual identifiers;~~ point
26 of origin of livestock; the physical description of the livestock; the
27 documentary evidence, such as bills of sale, brand clearance,
28 certificates of inspection, breed registration certificates, animal
29 health or testing certificates, genomic testing certificates, recorded
30 brand certificates, purchase sheets, scale tickets, disclaimers of
31 interest, affidavits, court orders, security agreements, powers of

1 attorney, canceled checks, bills of lading, or tags; and such other
2 facts, statements, or circumstances that taken in whole or in part cause
3 an inspector to believe that proof of ownership is established.

4 Sec. 10. Section 54-199, Reissue Revised Statutes of Nebraska, is
5 amended to read:

6 54-199 (1) To record a brand, a person shall forward to the Nebraska
7 Brand Committee a facsimile or description of the brand desired to be
8 recorded, a written application, and a recording fee and research fee
9 established by the brand committee. Such recording fee may vary according
10 to the number of locations and methods of brand requested but shall not
11 be more than one hundred fifty dollars per application. Such research fee
12 shall be charged on all applications and shall not be more than fifty
13 dollars per application.

14 (2) For recording of visual brands, upon receipt of a facsimile of
15 the brand, an application, and the required fee, the brand committee
16 shall determine compliance with the following requirements:

17 (a) The brand shall be an identification mark that is applied to the
18 hide of a live animal by hot iron branding or by either hot iron branding
19 or freeze branding. The brand shall be on either side of the animal in
20 any one of three locations, the shoulder, ribs, or hip;

21 (b) The brand is not recorded under the name of any other person and
22 does not conflict with or closely resemble a prior recorded brand;

23 (c) The brand application specifies the left or right side of the
24 animal and the location on that side of the animal where the brand is to
25 be placed;

26 (d) The brand is not recorded as a trade name nor as the name of any
27 profit or nonprofit corporation, unless such trade name or corporation is
28 of record, in current good standing, with the Secretary of State; and

29 (e) The brand is, in the judgment of the brand committee, legible,
30 adequate, and of such a nature that the brand when applied can be
31 properly read and identified by employees of the brand committee.

1 (3) All visual brands shall be recorded as a hot iron brand only
2 unless a co-recording as a freeze brand or other approved method of
3 branding is requested by the applicant. The brand committee shall approve
4 co-recording a brand as a freeze brand unless the brand would not be
5 distinguishable from in-herd identification applied by freeze branding.

6 (4) If the facsimile, the description, or the application does not
7 comply with the requirements of this section, the brand committee shall
8 not record such brand as requested but shall return the recording fee to
9 the forwarding person. The power of examination and rejection is vested
10 in the brand committee, and if the brand committee determines that the
11 application for a visual brand falls within the category set out in
12 subdivision (2)(e) of this section, it shall decide whether or not a
13 recorded brand shall be issued. The brand committee shall make such
14 examination as promptly as possible. If the brand is recorded, the
15 ownership vests from the date of filing of the application.

16 ~~(5) The brand committee may by rule and regulation provide for the~~
17 ~~use of approved nonvisual identifiers for purposes of enrolling cattle~~
18 ~~identified by such method of livestock identification. Such method of~~
19 ~~livestock identification shall be approved only if it functions as~~
20 ~~satisfactory evidence of ownership for the purpose of enrollment of~~
21 ~~cattle and for electronic inspection authorized under section 54-1,108.~~
22 ~~Before approving any nonvisual identifier, the brand committee shall~~
23 ~~consider the degree to which such method may be susceptible to error,~~
24 ~~failure, or fraudulent alteration. Any rule or regulation shall be~~
25 ~~adopted and promulgated only after public hearing conducted in compliance~~
26 ~~with the Administrative Procedure Act.~~

27 Sec. 11. Section 54-1,108, Reissue Revised Statutes of Nebraska, is
28 amended to read:

29 54-1,108 (1)(a) All brand ~~physical~~ inspections for brands provided
30 for in the Livestock Brand Act or section 54-415 shall be from sunrise to
31 sundown or during such other hours and under such conditions as the

1 Nebraska Brand Committee determines. The brand committee shall assess a
2 fifty-dollar late notice surcharge if a request for a brand physical
3 inspection is made less than forty-eight hours prior to the date of
4 inspection.

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

9 (b) ~~(c)~~ Beginning October 1, 2021, a brand physical inspection fee
10 of eighty-five cents per head until June 30, 2023, and beginning July 1,
11 2023, a fee established by the Nebraska Brand Committee, of not more than
12 one dollar and ten cents per head shall be charged for all cattle
13 inspected in accordance with the Livestock Brand Act or section 54-415,
14 inspected within the brand inspection area or brand inspection service
15 area by court order, inspected at the request of any bank, credit agency,
16 or lending institution with a legal or financial interest in such cattle,
17 or inspected at the request of a neighboring livestock owner with missing
18 cattle. The inspection fee for court-ordered inspections shall be paid
19 from the proceeds of the sale of such cattle if ordered by the court or
20 by either party as the court directs. For other inspections, the person
21 requesting the inspection of such cattle is responsible for the
22 inspection fee. Brand inspections requested by either a purchaser or
23 seller of cattle located within the brand inspection service area shall
24 be provided upon the same terms and charges as brand inspections
25 performed within the brand inspection area. If stray cattle are
26 identified as a result of the inspection, such cattle shall be processed
27 in the manner provided by section 54-415.

28 (c) ~~(d)~~ The actual mileage incurred by the inspector to perform a
29 brand physical inspection shall be paid by the party requesting
30 inspection and paid at the rate established by the Department of
31 Administrative Services pursuant to section 81-1176.

1 (d) ~~(e)~~ For brand physical inspections performed outside of the
2 brand inspection area that are not provided for in subdivision ~~(b)~~ ~~(e)~~ of
3 this subsection, the fee shall be the inspection fee established in such
4 subdivision plus a fee to cover the actual expense of performing the
5 inspection, including mileage at the rate established by the Department
6 of Administrative Services and an hourly rate, not to exceed thirty
7 dollars per hour, for the travel and inspection time incurred by the
8 brand committee to perform such inspection. The brand committee shall
9 charge and collect the actual expense fee. Such fee shall apply to
10 inspections performed outside the brand inspection area as part of an
11 investigation into known or alleged violations of the Livestock Brand Act
12 and shall be charged against the person committing the violation.

13 ~~(2)(a) The brand committee may provide for electronic inspection of~~
14 ~~enrolled cattle identified by approved nonvisual identifiers pursuant to~~
15 ~~subsection (5) of section 54-199. The brand committee shall establish~~
16 ~~procedures for enrollment of such cattle with the brand committee which~~
17 ~~shall include providing acceptable certification or evidence of~~
18 ~~ownership. Electronic inspection shall not require agency employees to be~~
19 ~~present, except that random audits shall occur. (b) Beginning October 1,~~
20 ~~2021, an electronic inspection fee not to exceed eighty five cents per~~
21 ~~head until June 30, 2023, and beginning July 1, 2023, a fee established~~
22 ~~by the brand committee of not more than one dollar and ten cents per head~~
23 ~~shall be charged for all cattle subjected to electronic inspection in~~
24 ~~accordance with the Livestock Brand Act or section 54-415. (c) A~~
25 ~~certified bill of sale for sale of calves shall be provided to qualified~~
26 ~~dairies once the required information is electronically transferred to~~
27 ~~the brand committee on calves under thirty days of age. The fee shall be~~
28 eighty-five cents per head until June 30, 2023, and beginning July 1,
29 2023, an amount established by the brand committee of not more than one
30 dollar and ten cents per head the same as for an electronic inspection
31 ~~under subdivision (2)(b) of this section.~~

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

7 ~~(e) On or before December 1, 2021, the brand committee shall report~~
8 ~~to the Legislature any actions taken or necessary for implementing~~
9 ~~electronic inspection authorized by this subsection, including personnel~~
10 ~~and other resources utilized to support electronic inspection, how the~~
11 ~~brand committee's information technology capabilities are utilized to~~
12 ~~support electronic inspection, a listing of approved nonvisual~~
13 ~~identifiers, the requirements for enrolling cattle identified by approved~~
14 ~~nonvisual identifiers, current and anticipated utilization of electronic~~
15 ~~inspection by the livestock industry, and the fees required to recover~~
16 ~~costs of performing electronic inspection.~~

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

24 Sec. 12. Section 54-1,111, Reissue Revised Statutes of Nebraska, is
25 amended to read:

26 54-1,111 (1) Except as provided in subsection (2) of this section,
27 no person shall sell or trade any cattle located within the brand
28 inspection area, nor shall any person buy or purchase any such cattle
29 unless the cattle have been inspected for brands and evidence of
30 ownership and a certificate of inspection or brand clearance has been
31 issued by the Nebraska Brand Committee. Any person selling such cattle

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

8 (2) A brand inspection is not required:

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

12 (b) For cattle that are:

13 (i) Transferred to a family corporation when all the shares of
14 capital stock of the corporation are owned by the husband, wife,
15 children, or grandchildren of the transferor and there is no
16 consideration for the transfer other than the issuance of stock of the
17 corporation to such family members; or

18 (ii) Transferred to a limited liability company in which membership
19 is limited to the husband, wife, children, or grandchildren of the
20 transferor and there is no consideration paid for the transfer other than
21 a membership interest in the limited liability company;

22 (c) When the change of ownership of cattle is a change in form only
23 and the surviving interests are in the exact proportion as the original
24 interests of ownership. When there is a change of ownership described in
25 subdivision (2)(b) or (c) of this section, an affidavit, on a form
26 prescribed by the Nebraska Brand Committee, signed by the transferor and
27 stating the nature of the transfer and the number of cattle involved and
28 the brands presently on the cattle, shall be filed with the brand
29 committee;

30 (d) For cattle sold or purchased for educational or exhibition
31 purposes or other recognized youth activities if a properly executed bill

1 of sale is exchanged and presented upon demand. Educational or exhibition
2 purpose means cattle sold or purchased for the purpose of being fed,
3 bred, managed, or tended in a program designed to demonstrate or instruct
4 in the use of various feed rations, the selection of individuals of
5 certain physical conformation or breeds, the measurement and recording of
6 rate of gain in weight or fat content of meat or milk produced, or the
7 preparation of cattle for the purpose of exhibition or for judging as to
8 quality and conformation;

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

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

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

20 Sec. 13. Section 54-1,122, Reissue Revised Statutes of Nebraska, is
21 amended to read:

22 54-1,122 Any cattle originating in a state that has a brand
23 inspection agency and which are accompanied by a certificate of
24 inspection or brand clearance issued by such agency may be moved directly
25 from the point of origin into a registered feedlot. Any cattle not
26 accompanied by such a certificate of inspection or brand clearance or by
27 satisfactory evidence of ownership from states or portions of states not
28 having brand inspection shall be inspected ~~subjected to physical~~
29 ~~inspection~~ for brands by the Nebraska Brand Committee ~~or, if applicable,~~
30 ~~subjected to electronic inspection,~~ within a reasonable time after
31 arrival at a registered feedlot, and the inspection fee and mileage

1 charge, if applicable, provided under section 54-1,108 shall be collected
2 by the brand inspector at the time the inspection is performed.

3 Sec. 14. Section 54-415, Reissue Revised Statutes of Nebraska, is
4 amended to read:

5 54-415 Any person taking up an estray within the brand inspection
6 area or brand inspection service area shall report the same within seven
7 days thereafter to the Nebraska Brand Committee. Any person taking up an
8 estray in any other area of the state shall report the same to the county
9 sheriff of the county where the estray was taken. If the animal is
10 determined to be an estray by a representative of the Nebraska Brand
11 Committee or the county sheriff, as the case may be, such animal shall,
12 as promptly as may be practicable, be sold through the most convenient
13 livestock auction market. The proceeds of such sale, after deducting the
14 selling expenses, shall be paid over to the Nebraska Brand Committee to
15 be placed in the estray fund identified in section 54-1,118, if such
16 estray was taken up within the brand inspection area or brand inspection
17 service area, and otherwise to the treasurer of the county in which such
18 estray was taken up. During the time such proceeds are impounded, any
19 person taking up such estray may file claim with the Nebraska Brand
20 Committee or the county treasurer, as the case may be, for the expense of
21 feeding and keeping such estray while in his or her possession. When such
22 claim is filed it shall be the duty of the Nebraska Brand Committee or
23 the county board, as the case may be, to decide on the validity of the
24 claim so filed and allow the claim for such amount as may be deemed
25 equitable. When the estray is taken up within the brand inspection area
26 or brand inspection service area, such proceeds shall be impounded for
27 one year, unless ownership is determined sooner by the Nebraska Brand
28 Committee, and if ownership is not determined within such one-year
29 period, the proceeds shall be paid into the permanent school fund, less
30 the actual expenses incurred in the investigation and processing of the
31 estray fund. Any amount deducted as actual expenses incurred shall be

1 deposited in the Nebraska Brand Inspection and Theft Prevention Fund.
2 When the estray is taken up outside the brand inspection area or brand
3 inspection service area and ownership cannot be determined by the county
4 board, the county board shall then order payment of the balance of the
5 sale proceeds less expenses, to the permanent school fund. If the brand
6 committee or the county board determines ownership of an estray sold in
7 accordance with this section by means of evidence of ownership other than
8 the owner's recorded Nebraska brand, an amount not to exceed the actual
9 investigative costs or expenses may be deducted from the proceeds of the
10 sale. Any person who violates this section is guilty of a Class II
11 misdemeanor. The definitions found in sections 54-172 ~~54-171.01~~ to 54-190
12 and section 5 of this act apply to this section.

13 Sec. 15. Original sections 54-170, 54-171, 54-172, 54-173, 54-176,
14 54-179, 54-182, 54-189, 54-199, 54-1,108, 54-1,111, 54-1,122, and 54-415,
15 Reissue Revised Statutes of Nebraska, are repealed.

16 Sec. 16. The following sections are outright repealed: Sections
17 54-171.01, 54-179.03, 54-179.04, 54-187.01, and 54-1,124.01, Reissue
18 Revised Statutes of Nebraska.

19 Sec. 17. Since an emergency exists, this act takes effect when
20 passed and approved according to law.