

LEGISLATIVE BILL 1174

Approved by the Governor April 15, 1996

Introduced by Dierks, 40; Jones, 43; Schmitt, 41; Schrock, 38; Wickersham, 49

AN ACT relating to livestock; to amend sections 54-134, 54-143, 54-145.01, 54-160, 54-401, 54-403, and 54-407, Reissue Revised Statutes of Nebraska; to change and eliminate brand inspection area provisions, brand inspection and livestock transportation requirements, and trespassing animal provisions; to eliminate a definition; to harmonize provisions; to repeal the original sections; and to outright repeal sections 54-134.07 and 54-408, Reissue Revised Statutes of Nebraska.

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

Section 1. Section 54-134, Reissue Revised Statutes of Nebraska, is amended to read:

54-134. There is hereby created the Nebraska brand inspection area which shall consist of all that part of the State of Nebraska lying within the following counties: Arthur, Banner, Blaine, Box Butte, Boyd, Brown, Buffalo, Chase, Cherry, Cheyenne, Custer, Dawes, Dawson, Deuel, Dundy, Franklin, Frontier, lots 17, 18, 32, and the east one hundred feet of lots 33 and 34, ~~Gorbins addition to the village of Beaver City,~~ and part of the south half of section 1, township 3 north, range 21, on railroad right-of-way in the west part of Oxford Town called Burlington addition; ~~Oxford;~~ in Furnas, Garden, Garfield, Gosper, Grant, Greeley, all of lots 1, 7, and 8 in block 48 in original town of Grand Island, and all of the southeast quarter lying south of the Union Pacific Railroad Company's right-of-way in section 24, township 11 north, range 10 in Hall, Harlan, Hayes, Hitchcock, Holt, Hooker, Howard, Kearney, Keith, Keya Paha, Kimball, all of Knox except Eastern, Dolphin, Dowling, Columbia, Morton, Peoria, Addison, Herrick, Frankfort, and Lincoln townships, Lincoln, Logan, Loup, McPherson, Morrill, Perkins, Phelps, Red Willow, Rock, Scotts Bluff, Sheridan, Sherman, Sioux, Thomas, Valley, the existing livestock auction markets in Blue Hill, all of lots 1 to 6, and lots 7 and 8, except twenty-two feet of the east side of lot 8, all in block 6, original town of Blue Hill, and Red Cloud, part of lot A, Roats subdivision to Red Cloud, lots 1 and 2 and the south one-half of block 32 in original town of Red Cloud, and all of annex lot 21, Red Cloud, in Webster, and all of Wheeler.

Sec. 2. Section 54-143, Reissue Revised Statutes of Nebraska, is amended to read:

54-143. (1) Except as provided in subsections (2) and (3) of this section, no ~~no~~ owner, seller, shipper, person, persons, firm, motor carrier, railroad company, or other carrier or corporation or his, her, its, or their agent or agents or servant or servants, shall move, drive, ship, or transport, in any manner, any cattle from any point within the brand area to any point outside the brand area, unless such cattle ~~shall~~ first have a brand inspection by the Nebraska Brand Committee, and a certificate of brand inspection issued. A copy of such certificate shall accompany the cattle and shall be retained by all persons transporting or moving such cattle, as a permanent record. ~~PROVIDED, if the line designating the brand area divides any ranch or farm, written permission may be given, at the discretion of the Nebraska Brand Committee, to the owner or owners of cattle on such ranch or farm to move the cattle in and out of the brand area without inspection; AND PROVIDED FURTHER, any cattle falling under the provisions of the registered feedlot laws and rules and regulations shall not be subject to cattle brand inspection.~~

(2) Cattle under the registered feedlot law in sections 54-159 to 54-169 and the rules and regulations promulgated pursuant to such sections are subject to such sections, rules, and regulations and are not subject to the cattle brand inspection of subsection (1) of this section. Possession by the shipper or trucker of a properly completed shipping certificate as provided for in section 54-163, shall constitute compliance with this section, if the cattle being shipped are as represented on such certificate.

(3) If the line designating the brand area divides a farm or ranch or lies between noncontiguous parcels of land which are owned or operated by the same cattle owner or owners, a permit may be issued, at the discretion of the Nebraska Brand Committee, to the owner or owners of cattle on such farm, ranch, or parcels of land to move the cattle in and out of the brand area without inspection. If the line designating the brand area lies between a farm or ranch and nearby veterinary medical facilities, a permit may be issued, at the discretion of the Nebraska Brand Committee, to the owner or

owners of cattle on such farm or ranch to move the cattle in and out of the brand area without inspection to obtain care from the veterinary medical facilities. The Nebraska Brand Committee shall issue initial permits only after receiving an application which includes an application fee of ten dollars. The Nebraska Brand Committee shall mail all current permitholders an annual renewal notice, for January 1 renewal, which requires a renewal fee of ten dollars. If the permit conditions still exist, the cattle owner or owners may renew the permit.

(4) No person shall sell any cattle knowing that the ~~same~~ cattle are to be moved, driven, shipped, or transported in violation of this section. Proof of shipment or removal of the cattle from the brand area by the buyer or his or her agent shall be ~~is~~ prima facie proof of knowledge that sale was had for removal from the brand area.

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

Sec. 3. Section 54-145.01, Reissue Revised Statutes of Nebraska, is amended to read:

54-145.01. Any person other than the owner of the livestock, dead stock, or portions thereof, or the owner's employee, using a motor vehicle or trailer to transport such stock found driving, either alone or with others, in possession of a truck, automobile, or other motor vehicle or trailer carrying any livestock, dead stock or portions thereof, passing upon or over any land in the State of Nebraska in the brand inspection area, of which such person is not the owner, lessee, or tenant, or passing over or upon any highway, public street, or thoroughfare in the State of Nebraska in the brand inspection area, shall have in his or her possession a written permit authorizing such movement as to each head of livestock carried transported by such vehicle, which permit must be signed by the owner of the livestock so carried transported or his or her authorized agent. The driver of the vehicle such person shall exhibit such permit to any peace officer in the State of Nebraska requesting it. Any such person the same; PROVIDED, that anyone outside the brand inspection area so transporting livestock shall have in his or her possession a permit showing ownership or proof of ownership acceptable to the peace officer, number of livestock, and destination, which permit shall be delivered to the public market or anyone to whom the livestock is delivered. Any peace officer in the State of Nebraska, based upon probable cause to question the ownership of livestock being transported, may stop a motor vehicle or motor vehicle and trailer and request exhibition of any permit required by this section.

Sec. 4. Section 54-160, Reissue Revised Statutes of Nebraska, is amended to read:

54-160. Sections 54-159 to 54-169 are adopted for the purpose of insuring compliance with sections 28-511, 28-512, 28-519, 54-101 to 54-156, 54-401 to 54-408 54-407, 54-415, and 54-1183 to 54-1185.

Sec. 5. Section 54-401, Reissue Revised Statutes of Nebraska, is amended to read:

54-401. The owners of cattle, horses, mules, swine, and sheep in this state, shall hereafter be ~~are~~ liable for all damages done by such stock upon the cultivated lands of another in this state as provided by section 54-402 if the damages to the cultivated lands are not the result of negligent or willful damage to the division fence by the person claiming damages to the cultivated lands land.

Sec. 6. Section 54-403, Reissue Revised Statutes of Nebraska, is amended to read:

54-403. When any such stock ~~shall be is~~ found upon the cultivated lands of another, it shall be ~~is~~ lawful for the owner or person in possession of such lands ~~to impound such stock. If and if~~ the owner of the stock can be found, and is known to the distrainer, it shall be ~~is~~ the duty of the distrainer to notify the owner by leaving a written notice at his or her usual place of residence with some member of his ~~the~~ family over the age of fourteen, ~~or or~~, in the absence of such person, by posting on the door of such residence a copy of the notice of the distraint of the stock, describing it, and stating the amount of damages claimed and the name of the arbitrator. ~~The notice shall also require and requiring~~ the owner within forty-eight hours after receiving such notice to take the stock away, after making full payment of all damages and costs to the satisfaction of the distrainer of trespassing animals. The notice may be in the following form:

Mr. ~~*****~~ +
You are hereby notified that on this day of 19, your stock, of which I now have in my possession (here describe the animal or animals) did trespass upon my land, and damage ~~the same~~ it to the amount of You are

required to pay the above charges within forty-eight hours from the delivery of this notice, or the ~~above~~ stock will be sold, as provided by law. I have appointed ~~Mr.~~ to act as arbitrator should you not feel satisfied with the amount of damages claimed in the within notice.

No claim for damages shall be maintained by the distrainer without the notice contemplated in this section having been given, when the owner is known by the distrainer of such stock.

Sec. 7. Section 54-407, Reissue Revised Statutes of Nebraska, is amended to read:

54-407. In case the owner of such stock is not known or found in the county, the distrainer of the stock so trespassing upon ~~cultivated~~ lands shall proceed as provided by law regulating estrays, and the stock shall be held liable for all damages and costs.

Sec. 8. Original sections 54-134, 54-143, 54-145.01, 54-160, 54-401, 54-403, and 54-407, Reissue Revised Statutes of Nebraska, are repealed.

Sec. 9. The following sections are outright repealed: Sections 54-134.07 and 54-408, Reissue Revised Statutes of Nebraska.