

HOUSE BILL No. 2480

AN ACT concerning livestock; relating to marks and brands; amending K.S.A. 47-418, 47-421, 47-423 and 47-426 and K.S.A. 2015 Supp. 47-414, 47-414a, 47-416, 47-417, 47-417a, 47-420, 47-422, 47-428, 47-446 and 47-1011a and repealing the existing sections; also repealing K.S.A. 47-436, 47-438, 47-439, 47-440, 47-445 and 47-447 and K.S.A. 2015 Supp. 47-418a, 47-432, 47-433, 47-434, 47-435, 47-437, 47-441 and 47-442.

Be it enacted by the Legislature of the State of Kansas:

New Section 1. On July 1, 2016, the director of accounts and reports shall transfer all moneys in the livestock brand emergency revolving fund and the county option brand fee fund to the livestock brand fee fund established in K.S.A. 47-417a, and amendments thereto. On July 1, 2016, all liabilities of the livestock brand emergency revolving fund and the county option brand fee fund are hereby transferred to and imposed on the livestock brand fee fund, and the livestock brand emergency revolving fund and the county option brand fee fund are hereby abolished.

Sec. 2. K.S.A. 2015 Supp. 47-414 is hereby amended to read as follows: 47-414. As used in ~~this act~~ *article 4 of chapter 47 of the Kansas Statutes Annotated, and amendments thereto, except where the context clearly indicates a different meaning:*

- (a) "Person" means every natural person, firm, copartnership, association or corporation;
- (b) "livestock" means cattle, ~~sheep,~~ horses, mules or asses;
- (c) "brand" means any permanent identifying mark upon the surface of any livestock, except upon horns and hoofs, made by ~~any acid, chemical, a hot iron or cryogenic branding; and, also in the case of sheep shall include the identifying marks made by paint or tar;~~
- (d) "commissioner" means the animal health commissioner of the Kansas department of agriculture;
- (e) ~~"board" means the animal health board, created in K.S.A. 74-4001, and amendments thereto;~~
- (f) ~~"cryogenic branding" means a brand produced by application of extreme cold temperature.~~

Sec. 3. K.S.A. 2015 Supp. 47-414a is hereby amended to read as follows: 47-414a. ~~(a)~~ Whenever in any statutes of this state the terms "livestock commissioner," "livestock brand commissioner" or "brand commissioner" are used, or the term "commissioner" is used to refer to the livestock brand commissioner, such terms shall be construed to mean the animal health commissioner appointed by the secretary of agriculture pursuant to K.S.A. 74-5,119, and amendments thereto.

~~(b) Whenever the term "board" is used in the acts contained in K.S.A. 47-414 through 47-433, and amendments thereto, such term shall be construed to mean the Kansas animal health board created in K.S.A. 74-4001, and amendments thereto.~~

Sec. 4. K.S.A. 2015 Supp. 47-416 is hereby amended to read as follows: 47-416. It shall be the duty of the animal health commissioner to keep all books and records and to record all brands used for the branding or marking of livestock in Kansas. The commissioner shall receive applications for the recording of any and all brands and the commissioner shall decide on the availability and desirability of any brand or brands sent in for recording.

The commissioner, *with the approval of the secretary of the Kansas department of agriculture,* may appoint ~~an assistant commissioner in charge of brands and~~ such brand inspectors, special investigators, examiners, deputy assistants and employees necessary, *and the secretary may enter into contractual agreements with the attorney general,* to carry out the provisions of ~~the acts contained in~~ article 4 of chapter 47 of the Kansas Statutes Annotated, and amendments thereto, ~~subject to approval of the board.~~

Sec. 5. K.S.A. 2015 Supp. 47-417 is hereby amended to read as follows: 47-417. (a) Any person may adopt a brand for the purpose of branding livestock in accordance with authorized rules and regulations of the animal health commissioner of the Kansas department of agriculture division of animal health. Such person shall have the exclusive right to use such brand in this state, after registering such brand with the animal health commissioner.

(b) Any person desiring to register a livestock brand shall forward to the commissioner a facsimile of such brand and shall accompany the same with the registration fee in the amount provided under this section. Each

person making application for the registering of an available livestock brand shall be issued a certificate of brand title. Such brand title shall be valid for a period ending four years subsequent to the next April 1 following date of issuance.

(c) For the purpose of revising the brand records, the animal health commissioner shall collect a renewal fee in the amount provided under this section on all brands upon which the recording period expires. Any person submitting such renewal fee shall be entitled to a renewal of registration of such person's livestock brand for a five-year period from the date of expiration of registration of such person's livestock brand as shown by such person's last certificate of brand title.

(d) The livestock brand of any person whose registration expires and who fails to pay such renewal fee within a grace period of 60 days after expiration of the registration period shall be placed in a delinquency status ~~forfeited~~. The use of a ~~delinquent forfeited~~ brand shall be unlawful. ~~If the owner of any delinquent registered brand the registration of which has expired fails to renew registration of such brand within 120 days after such brand became delinquent, such failure shall constitute an abandonment of all claim to any property right in such brand.~~

(e) ~~Upon the expiration of such delinquency period without any request for renewal and required remittance from the last record owner of a brand or such owner's heirs, legatees or assigns, and with the termination of property rights by abandonment forfeiture of a livestock brand,~~ the animal health commissioner is authorized to receive and accept an application for such brand to the same extent as if such brand had never been issued to anyone as a registered brand.

(f) The animal health commissioner shall determine annually the amount of funds which will be required for the purposes for which the brand registration and renewal fees are charged and collected and shall fix and adjust from time to time each such fee in such reasonable amount as may be necessary for such purposes, except that in no case shall either the brand registration fee or the renewal fee exceed \$55. The amounts of the brand registration fee and the renewal fee in effect on the day preceding the effective date of this act shall continue in effect until the animal health commissioner fixes different amounts for such fees under this section.

Sec. 6. K.S.A. 2015 Supp. 47-417a is hereby amended to read as follows: 47-417a. (a) The animal health commissioner, when brand inspectors or examiners are available, may provide brand inspection. When brand inspection is requested and provided, the animal health commissioner shall charge and collect from the person making the request, a brand inspection fee of not to exceed \$.75 per head ~~on cattle and \$.05 per head on sheep and other~~ for all livestock. No inspection charge shall be made or collected at any licensed livestock market where brand inspection is otherwise available.

(b) The animal health commissioner shall remit all moneys received under the statutes contained in article 4 of chapter 47 of the Kansas Statutes Annotated, and amendments thereto, ~~except K.S.A. 47-434 through 47-445, and amendments thereto,~~ to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the livestock brand fee fund. All expenditures from such fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the ~~animal health commissioner or by a person or persons designated by the commissioner~~ secretary of agriculture.

(c) *The commissioner is authorized to adopt and enforce such rules and regulations governing brand inspections as the commissioner shall deem necessary for the proper enforcement of the livestock laws in Kansas. The commissioner, brand inspectors and special investigators shall aid in investigations and prosecutions of violations of the livestock laws of Kansas and other laws of this state and of the rules and regulations of the commissioner.*

Sec. 7. K.S.A. 47-418 is hereby amended to read as follows: 47-418. Livestock may be branded in any way, or on any part of the animal, according to rules and regulations adopted by the commissioner, but live-

stock shall be branded so that they may be readily distinguished should they become intermixed with other herds. Livestock brands for identification of cattle to control diseases may be placed on the head or tailhead of the cattle. ~~The letter “T” shall be used on the left jaw, by hot iron, to identify tuberculosis reactors, the letter “V” may be used on the left jaw, by hot iron, to identify brucellosis vaccinated cattle, the letter “S” may be used on the left jaw or the tailhead, by hot iron, to identify brucellosis exposed or untested test eligible animals, the letter “F” may be used on the left jaw or the left tailhead, by hot iron, to designate heifers from B and C states as listed by the United States department of agriculture.~~ No applications for livestock brands for owner identification shall be issued for head, neck or tailhead locations, and the ~~head and tailhead locations~~ *location* for livestock brands shall be reserved for brands for disease control purposes, except that head, neck and tailhead brands presently effective may have registration renewal upon term expirations. No evidence of ownership of brands shall be recorded except as provided in this act.

Sec. 8. K.S.A. 2015 Supp. 47-420 is hereby amended to read as follows: 47-420. (a) It shall be unlawful for any person to use any brand for branding any livestock unless such brand has been duly registered in the office of the animal health commissioner ~~at Topeka~~, except: (1) The use of a single numeral digit, zero to nine, in conjunction with the registered brand of the owner may be used for the purpose of determining the age of the branded animal, such number to be applied at least six inches from such registered brand; (2) the use of serial numbers in conjunction with the registered brand of the owner may be used for the purpose of identifying individual animals, such numbers to be applied at least six inches from the registered brand; (3) the use of numbers in conjunction with the registered brand of the owner may be used for the purpose of identifying herds of the same owner for feeding or experimental purposes, such numbers to be applied at least six inches from the registered brand; and (4) the use of a digital system of branding livestock may be used for the purpose of identifying animals in a licensed feedlot. Such feedlot brand may be used in conjunction with the registered brand of the owner, such brand to be applied at least six inches from such registered brand or may be used on animals which are not branded with a registered brand of the owner, subject to conditions, limitations and requirements applicable to the use of a feedlot brand as prescribed in K.S.A. 47-446, and amendments thereto.

(b) The age, serial, herd or feedlot brand shall not be construed as a part of the registered brand and the use of such numeral or numerals, *whether or not such use is* in conjunction with a registered brand, shall not be unlawful. ~~Before any person uses any such serial or herd brand in conjunction with a registered brand, such person shall first obtain a permit from the animal health commissioner authorizing such use.~~

~~(b)(c)~~ (c) The animal health commissioner ~~is authorized~~ *may allow applicants to receive applications for permits for such denote on an application for a registered brand whether the applicant shall use age, serial or herd brands, and issue permits thereon. All applications for such permits shall be accompanied by a permit fee of \$1.50. No such fee shall be required if the application for such permit is submitted in conjunction with an original application for the registered brand or in conjunction with a request for renewal of registration of a registered brand may allow the owner of a registered brand to amend the registered brand to denote whether the applicant will use such age, serial or herd brands.*

Sec. 9. K.S.A. 47-421 is hereby amended to read as follows: 47-421. (a) *Except as provided in subsection (b), any person who willfully brands or causes to be branded any livestock in any manner other than as required or authorized by the laws of this state and the rules and regulations of the animal health commissioner shall be deemed guilty of a class A misdemeanor.*

(b) Any person who shall willfully and knowingly brand or cause to be branded with such person's brand, or any brand not the recorded brand of the owner, any livestock being the property of another, or who shall willfully or knowingly efface, deface or obliterate any brand upon any livestock, shall be deemed guilty of a *nondrug severity level 6, non-person felony, and upon conviction thereof shall be punished by confine-*

~~ment in the custody of the secretary of corrections for a period not exceeding five years.~~

(c) Prosecution for violation of the provisions of this section may be had either in the county where such violation occurred or in any county in which the livestock may be located or found in the possession of the accused.

Sec. 10. K.S.A. 2015 Supp. 47-422 is hereby amended to read as follows: 47-422. ~~(a) Any brand registered with the animal health commissioner of the Kansas department of agriculture in compliance with the requirements of this act article 4 of chapter 47 of the Kansas Statutes Annotated, and amendments thereto, shall be the property of the person causing such record to be made. Such brand shall be subject to sale, assignment, transfer, devise and descent as other personal property. Instruments of writing evidencing the sale, assignment or transfer of such brand shall be recorded by the animal health commissioner. The fee for recording such instruments shall be \$15 an amount not to exceed \$30. Such instruments shall have the same force and effect as recorded instruments affecting real estate. A certified copy of the record of any such instrument may be introduced in evidence the same as certified copies of instruments affecting real estate. Any brand recorded with the Kansas department of agriculture division of animal health shall not be used by any person other than the recorded owner.~~

~~(b) Any person violating any provision of this section shall be guilty of a class C misdemeanor.~~

Sec. 11. K.S.A. 47-423 is hereby amended to read as follows: 47-423. Any person who causes to be brought into ~~any county of~~ the state from any other state for the purpose of grazing or feeding for a period of not to exceed ~~eight~~ 12 months, livestock which carry a brand or brands recorded in a recognized brand organization of any other state, shall ~~upon obtaining a permit from the commissioner~~ be exempt from the provisions of K.S.A. 47-420, and amendments thereto, for a period of ~~eight~~ 12 months. After such time such brand or a new brand must be recorded in this state, ~~or an extension of such permit obtained from the commissioner. Failure to comply with the provisions of this section will render the party so violating liable for all damages resulting from such failure.~~

Sec. 12. K.S.A. 47-426 is hereby amended to read as follows: 47-426. The commissioner may make all the necessary rules and regulations to carry out the provisions of ~~this act article 4 of chapter 47 of the Kansas Statutes Annotated, and amendments thereto,~~ and may by such rules and regulations make and provide for exceptions, in addition to those listed in K.S.A. 47-420, and amendments thereto, for the use of particular brands in conjunction with the recorded brand. ~~Any such brands shall be at least six inches from the recorded brand.~~

Sec. 13. K.S.A. 2015 Supp. 47-428 is hereby amended to read as follows: 47-428. The animal health commissioner and the commissioner's deputies ~~or, assistants, special investigators, inspectors or examiners~~ are hereby authorized to enter upon any private lands to make any inspections necessary for the purpose of carrying out the provisions of ~~this act or any of the provisions of~~ article 4 of chapter 47 of the Kansas Statutes Annotated, and amendments thereto. The commissioner and the commissioner's deputies or assistants may accept proof of ownership of livestock from any person in possession of animals bearing the recorded brands of another party ~~or any other identification~~ as sufficient to exclude and exempt such animals from being classified as stray animals under the provisions of ~~this act article 4 of chapter 47 of the Kansas Statutes Annotated, and amendments thereto.~~

Sec. 14. K.S.A. 2015 Supp. 47-446 is hereby amended to read as follows: 47-446. Feedlot brands may be lawfully applied to livestock which are not branded with a registered brand of the owner and which are in the custody of, and upon the premises of, a feedlot operator licensed under the provisions of article 15 of chapter 47 of the Kansas Statutes Annotated, and amendments thereto, ~~subject to the following conditions, limitations and requirements:~~ (1) Such feedlot brand shall not be construed as evidence of ownership identification; ~~(2) livestock which are branded with a feedlot brand shall be held by the licensed feedlot operator under quarantine upon such feedlot premises until either released by such feedlot operator for movement to slaughter or released by the~~

~~animal health commissioner or such commissioner's authorized representative, by issuance of a permit authorizing such livestock to be moved from the feedlot premises for grazing purposes. Any such permit only shall be issued if such livestock have been branded with a registered brand of the owner of the livestock before release from licensed feedlot premises.~~

Sec. 15. K.S.A. 2015 Supp. 47-1011a is hereby amended to read as follows: 47-1011a. (a) The public livestock market operator shall collect from the consignor of cattle sold at a public livestock market, where brand inspection of such cattle is requested, by the public livestock market operator, as a brand inspection fee, in addition to amounts specified in K.S.A. 47-1011, and amendments thereto, a sum of not more than \$.40 per head on all such cattle. Such amount shall be determined by the animal health commissioner. If a public livestock market operator requests brand inspection at a public livestock market pursuant to this section, the public livestock market operator shall contract with the animal health commissioner to perform such brand inspection services.

~~(b) Where cattle consigned to, or sold at, such public livestock market originate in, and have brand inspection clearance from a county option brand inspection area, operating under K.S.A. 47-434 through 47-445, and amendments thereto, such livestock brand inspection fee under this section shall not be required.~~

~~(c)~~—The public livestock market operator shall pay all amounts received under this section to the animal health commissioner.

~~(d)~~(c) The animal health commissioner shall remit all amounts received under this section to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the livestock market brand inspection fee fund. All expenditures from such fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the animal health commissioner or by a person or persons designated by the commissioner.

Sec. 16. K.S.A. 47-418, 47-421, 47-423, 47-426, 47-436, 47-438, 47-439, 47-440, 47-445 and 47-447 and K.S.A. 2015 Supp. 47-414, 47-414a, 47-416, 47-417, 47-417a, 47-418a, 47-420, 47-422, 47-428, 47-432, 47-433, 47-434, 47-435, 47-437, 47-441, 47-442, 47-446 and 47-1011a are hereby repealed.

Sec. 17. This act shall take effect and be in force from and after its publication in the statute book.

I hereby certify that the above BILL originated in the HOUSE, and passed that body

HOUSE concurred in
SENATE amendments _____

Speaker of the House.

Chief Clerk of the House.

Passed the SENATE
as amended _____

President of the Senate.

Secretary of the Senate.

APPROVED _____

Governor.