

CHAPTER 54.

[H. B. 246.]

LIVESTOCK MARKETING AND INSPECTION.

AN ACT relating to the identification of livestock; providing penalties; repealing sections 2553 and 2554, Code of 1881 and RCW 16.48.060 and 16.48.070; repealing sections 1, 2, 3, 4, 6, 7, 8, 9, 10 and 11, chapter 156, Laws of 1935, section 5, chapter 156, Laws of 1935 as amended by section 2, chapter 98, Laws of 1949 and sections 3 and 4, chapter 98, Laws of 1949 and chapter 16.56 RCW; repealing section 14, chapter 75, Laws of 1937 as amended by section 2, chapter 198, Laws of 1939 and RCW 16.48.170; repealing section 4, chapter 198, Laws of 1939 and RCW 16.48.200; repealing sections 1, 2, 3, 9, 11 and 13, chapter 75, Laws of 1937 and RCW 16.48.011, 16.48.020, 16.48.021, 16.48.035, 16.48.260 and 16.48.190; repealing sections 9, 10, 11, 12 and 13, chapter 161, Laws of 1945 and RCW 16.48.210, 16.48.220, 16.48.230, 16.48.240 and 16.48.250; repealing section 4, chapter 75, Laws of 1937 as amended by section 1, chapter 30, Laws of 1947 and RCW 16.48.030; repealing sections 10 and 12, chapter 75, Laws of 1937 as amended by sections 9 and 10, chapter 98, Laws of 1949 and RCW 16.48.040 and 16.48.160; repealing section 6, chapter 75, Laws of 1937 as last amended by section 11, chapter 98, Laws of 1949 and RCW 16.48.130; repealing section 3, chapter 198, Laws of 1939 as amended by section 5, chapter 98, Laws of 1949 and RCW 16.48.180; repealing sections 14 and 15, chapter 98, Laws of 1949 and RCW 16.48.300 and 16.48.290; repealing section 12, chapter 98, Laws of 1949 as amended by section 1, chapter 160, Laws of 1951 and RCW 16.48.150; and repealing section 2, chapter 160, Laws of 1951 and RCW 16.48.151.

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

Definitions.

SECTION 1. For the purpose of this act:

"Department."

(1) "Department" means the department of agriculture of the state of Washington.

"Director."

(2) "Director" means the director of the department or his duly appointed representative.

"Person."

(3) "Person" means a natural person, individual, firm, partnership, corporation, company, society, and association, and every officer, agent or employee thereof. This term shall import either the singular or the plural as the case may be.

(4) "Livestock" includes, but is not limited to, horses, mules, cattle, sheep, swine, goats, poultry and rabbits. "Livestock."

(5) "Brand" means a permanent fire brand or any artificial mark approved by the director to be used in conjunction with a brand or by itself. "Brand."

(6) "Production record brand" means a number brand which shall be used for production identification purposes only. "Production record brand."

(7) "Brand inspection" means the examination of livestock or livestock hides for brands or any means of identifying livestock or livestock hides and/or the application of any artificial identification such as back tags or ear clips necessary to preserve the identity of the livestock or livestock hides examined. "Brand inspection."

SEC. 2. The director shall be the recorder of livestock brands and such brands shall not be recorded elsewhere in this state. Any person desiring to register a livestock brand shall apply on a form prescribed by the director. Such application shall be accompanied by a facsimile of the brand applied for and a three dollar recording fee. The director shall, upon his satisfaction that the application meets the requirements of this act and/or rules and regulations adopted hereunder, record such brand. Recording brands—Fee.

SEC. 3. The director shall not record tattoo brands or marks for any purpose subsequent to the enactment of this act. However, all tattoo brands and marks of record on the date of the enactment of this act shall be recognized as legal ownership brands or marks. Tattoo brands not recordable.

SEC. 4. The director may provide for the use of production record brands. Numbers for such brands shall be issued at the discretion of the director and shall be placed on livestock on a location prescribed by the director. Production record brands.

Prohibited branding.

SEC. 5. No person shall place a brand on livestock for any purpose unless such brand is recorded in his name.

Certain identical brands prohibited.

SEC. 6. No brand shall be recorded for ownership purposes which will be applied in the same location and is similar or identical to a brand used or reserved for ownership or health purposes by a governmental agency or the agent of such an agency.

Conflicting claims determined.

SEC. 7. The director shall determine conflicting claims between applicants to a brand, and in so doing shall consider the priority of applicants.

Brand renewal—Fee.

SEC. 8. The director shall, on or before the first day of September 1960, and every five years thereafter, notify by letter the owners of brands then of record, that on the payment of two dollars and application of renewal, the director shall issue a renewal receipt granting the brand owner exclusive ownership and use of such brand for another five year period. Failure of the registered owner to pay the renewal fee within six months shall cause the director to notify the registered owner by registered mail at his last known address. The failure of the registered owner to pay the renewal fee within three months after notification by registered mail shall cause such owner's brand to become a part of the public domain.

Brand as property. Instruments affecting title, recorded.

SEC. 9. A brand is the personal property of the owner of record. Any instrument affecting the title of such brand shall be acknowledged in the presence of the recorded owner and a notary public. The director shall record such instrument upon presentation and payment of one dollar recording fee. Such recording shall be constructive notice to all the world of the existence and conditions affecting the title to such brand. A copy of all records concerning the brand, certified by the director, shall be received in evidence to all intent and purposes as

the original instrument. The director shall not be personally liable for failure of his agents to properly record such instrument.

SEC. 10. The right to use a brand shall be evidenced by the original certificate issued by the director showing that the brand is of present record or a certified copy of the record of such brand showing that it is of present record. A healed brand of record on livestock shall be prima facie evidence that the recorded owner of such brand has legal title to such livestock and is entitled to its possession.

Evidence of right to use.

SEC. 11. No brand shall be placed on livestock that is not permanent in nature and of a size that is not readily visible. The director, in order to assure that brands are readily visible, may prescribe the size of branding irons to be used for ownership brands.

Brand size, permanency.

SEC. 12. No person shall remove or alter a brand of record on livestock without first having secured the written permission of the director. Violation of this section shall be a gross misdemeanor.

Altering brand, gross misdemeanor.

SEC. 13. The director shall not record a brand that is identical to a brand of present record; nor a brand so similar to a brand of present record that it will be difficult to distinguish between such brands when applied to livestock.

Identical brands not to be recorded.

SEC. 14. The owner of a brand of record may procure from the director a certified copy of the record of his brand upon payment of one dollar.

Certified record of brand.

SEC. 15. The director shall publish a book to be known as the "Washington State Brand Book," showing all the brands of record. Such book shall contain the name and address of the owners of brands of record and a copy of the brand laws and regulations. Supplements to such brand book showing newly recorded brands, amendments or newly

Brand book.

adopted regulations, shall be published biennially, or prior thereto at the discretion of the director.

Brand inspection.

SEC. 16. (1) The director shall provide for brand inspection at public stockyards, public livestock markets and wherever necessary to enforce the provisions of this act.

(2) The director may provide for brand inspection at all slaughterhouses and brand inspect livestock being slaughtered therein.

(3) The director may designate points where he will carry on brand inspection and such livestock as shall require brand inspection shall be made available for inspection at such designated points.

Right of entry, examination.

SEC. 17. The director may enter at any reasonable time any slaughterhouse or public livestock market to make an examination of the brands on livestock or hides, and may enter at any reasonable time an establishment where hides are held to examine them for brands. The director may enter any of these premises at any reasonable time to examine all books and records required by law in matters relating to brand inspection or other methods of livestock identification.

Search warrants authorized.

SEC. 18. Should the director be denied access to any premises or establishment where such access was sought for the purposes set forth in section 17, he may apply to any court of competent jurisdiction for a search warrant authorizing access to such premises or establishment for said purposes. The court may upon such application, issue the search warrant for the purposes requested.

Mandatory brand inspection, when.

SEC. 19. Except as otherwise provided in this act, livestock shall be brand inspected in each of the following instances:

(1) Prior to transportation out of the state.

(2) Prior to release or sale from a public stockyard or a public or private sales market.

(3) Prior to sale or release from a posted stockyard or posted salesyard.

SEC. 20. Any owner or his agent shall make the brand or brands on livestock being brand inspected readily visible and shall cooperate with the director to carry out such brand inspection in a safe and expeditious manner.

Brand inspection cooperation mandatory.

SEC. 21. The director shall have authority to arrest any person without warrant anywhere in the state found in the act of, or whom he has reason to believe is guilty of, driving, holding, selling or slaughtering stolen livestock. Any such person arrested by the director shall be turned over to the sheriff of the county where the arrest was made, as quickly as possible.

Arrest without warrant authorized.

SEC. 22. The director shall cause a charge to be made for all brand inspection required under this act and/or rules and regulations adopted hereunder. Such charge shall be paid to the department by the owner or person in possession of such livestock at the time of brand inspection and shall be a lien on the livestock or hides brand inspected until such charge is paid. Such charge shall be no greater than twenty cents nor less than ten cents per head of livestock or livestock hides brand inspected and shall be set at the discretion of the director, subsequent to a hearing as provided by law.

Charge for brand inspection.

SEC. 23. No person shall collect or make a charge for brand inspection of livestock unless there has been an actual brand inspection of such livestock by the director.

Actual inspection required.

SEC. 24. Any person purchasing, selling, holding for sale, trading, bartering, transferring title, slaughtering, handling, or transporting livestock shall keep a record on forms prescribed by the director. Such forms shall show the number, specie, brand or other method of identification of such livestock and any

Record of livestock.

other necessary information required by the director. Such records shall be made in triplicate; the original shall be forwarded to the director forthwith, one copy shall accompany the livestock to its destination and one copy shall be kept by the person handling the transaction for a period of at least twelve months following the transaction and shall be subject to inspection at any time by the director or any peace officer or member of the state patrol: *Provided*, That in the following instances only, livestock may be moved or transported within this state without being accompanied by a certificate of permit or an official brand inspection certificate or bill of sale:

(1) When such livestock is moved or transported upon lands under the exclusive control of the person moving or transporting such livestock;

(2) When such livestock is being moved or transported for temporary grazing or feeding purposes and has the registered brand of the person having or transporting such livestock, or accompanied by a certificate of permit.

Certificate or bill of sale required in transporting.

SEC. 25. Every person who transports or moves livestock in this state shall have in his possession when transporting or moving such livestock, a certificate of permit or an official certificate of brand inspection or bill of sale. Such certificate or bill of sale shall be on a form prescribed by the director and shall contain the following information:

(1) The name of the seller and purchaser or the name of the consignee and consignor.

(2) The brand or brands on such livestock.

(3) The number and any other method of identifying such livestock.

Certificate for out-of-state removal.

SEC. 26. It shall be unlawful for any person to remove or cause to be removed or accept for removal from this state, any livestock which is not ac-

accompanied at all times by an official brand inspection certificate issued by the director on such livestock.

SEC. 27. It shall be unlawful for any person moving or transporting livestock in this state to refuse to assist the director or any peace officer in establishing the identity of such livestock being moved or transported.

Cooperation in identifying required.

SEC. 28. No person shall have in his possession any livestock marked with a recorded brand or tattoo of another person unless:

Authorized possession when another's brand.

(1) Such livestock bears his own healed recorded brand, or

(2) Such livestock is accompanied by a certificate of permit from the owner of the recorded brand or tattoo, or

(3) Such livestock is accompanied by a brand inspection certificate, or

(4) Such livestock is accompanied by a bill of sale from the previous owner or other satisfactory proof of ownership.

SEC. 29. All unbranded cattle, horses, mules and burros and those bearing brands not recorded which are not accompanied by a certificate of permit, and those bearing brands recorded which are not accompanied by a certificate of permit signed by the owner of the brand when presented for inspection, are hereby declared estrays, unless other satisfactory proof of ownership is presented showing the person presenting them to be lawfully in possession. Such estrays shall be sold by the director or his representative who shall give the purchaser a bill of sale therefor.

Estrays, sale of.

SEC. 30. The proceeds from the sale of such estrays, after paying the cost thereof, shall be paid to the director, who shall make a record showing the brand or marks or other method of identification of the animals and the amount realized from the sale

Estrays, disposition of proceeds from sale of.

thereof. However, the proceeds from a sale of estrays at a licensed public livestock market shall be held by the licensee for a reasonable period not to exceed thirty days to permit the consignor to establish ownership or the right to sell such livestock. If such consignor fails to establish legal ownership or the right to sell such livestock, such proceeds shall be paid to the director to be disposed of as any other stray proceeds.

Claim on proceeds after notice of sale.

SEC. 31. When a person has been notified by registered mail that animals bearing his recorded brand have been sold by the director, he shall present to the director a claim on the proceeds within ten days from the receipt of the notice or the director may decide that no claim exists.

Payment on claim of brand owner—Fraud, gross misdemeanor.

SEC. 32. If, after the expiration of one year from the date of sale, the person presenting the animals for inspection has not provided the director with satisfactory proof of ownership, the proceeds from the sale shall be paid on the claim of the owner of the recorded brand. However, it shall be a gross misdemeanor for the owner of the recorded brand to knowingly accept such funds after he has sold, bartered or traded such animals to the claimant or any other person.

Disposition if no claim.

SEC. 33. If, after the expiration of one year from the date of sale, no claim is made, the money shall be credited to the department of agriculture to be expended in carrying out the provisions of this act.

Reciprocal agreements authorized.

SEC. 34. The director shall have the authority to enter into reciprocal agreements with any or all states to prevent the theft, misappropriation or loss of identification of livestock. The director may declare any livestock which is shipped or moved into this state from such states estrays if such livestock is not accompanied by the proper official brand certificate or other such certificates required by the law

of the state of origin of such livestock. The director may hold such livestock subject to all costs of holding or sell such livestock and send the funds, after the deduction of the cost of such sale, to the proper authority in the state of origin of such livestock.

SEC. 35. The director, but not his duly appointed representatives, may adopt such rules and/or regulations as are necessary to carry out the purposes of this act. It shall be the duty of the director to enforce and carry out the provisions of this act and/or rules and regulations adopted hereunder. No person shall interfere with the director when he is performing or carrying out duties imposed on him by this act and/or rules and regulations adopted hereunder.

Rules and regulations.

Enforcement.

SEC. 36. The violation of any provisions of this act and/or rules and regulations adopted hereunder shall constitute a misdemeanor unless otherwise specified herein.

Violation, misdemeanor.

SEC. 37. All fees collected under the provisions of this act shall be retained and deposited by the director to be used only for the enforcement of this act.

Disposition of fees.

SEC. 38. If any section or provision of this act shall be adjudged to be invalid or unconstitutional, such adjudication shall not affect the validity of the act as a whole, or any section, provision or part thereof, not adjudged invalid or unconstitutional.

Severability.

SEC. 39. The following acts or parts of acts are hereby repealed:

Repeal.

(1) Sections 2553 and 2554, Code of 1881 and RCW 16.48.060 and 16.48.070;

(2) Sections 1, 2, 3, 4, 6, 7, 8, 9, 10 and 11, chapter 156, Laws of 1935, section 5, chapter 156, Laws of 1935 as amended by section 2 chapter 98, Laws of 1949 and sections 3 and 4, chapter 98, Laws of 1949 and chapter 16.56 RCW;

Repeal.

(3) Section 14, chapter 75, Laws of 1937 as amended by section 2, chapter 198, Laws of 1939 and RCW 16.48.170;

(4) Section 4, chapter 198, Laws of 1939 and RCW 16.48.200;

(5) Sections 1, 2, 3, 9, 11 and 13, chapter 75, Laws of 1937 and RCW 16.48.011, 16.48.020, 16.48.021, 16.48.035, 16.48.260 and 16.48.190;

(6) Sections 9, 10, 11, 12 and 13, chapter 161, Laws of 1945 and RCW 16.48.210, 16.48.220, 16.48.230, 16.48.240 and 16.48.250;

(7) Section 4, chapter 75, Laws of 1937 as amended by section 1, chapter 30, Laws of 1947 and RCW 16.48.030;

(8) Sections 10 and 12, chapter 75, Laws of 1937 as amended by sections 9 and 10, chapter 98, Laws of 1949 and RCW 16.48.040 and 16.48.160;

(9) Section 6, chapter 75, Laws of 1937 as last amended by section 11, chapter 98, Laws of 1949 and RCW 16.48.130;

(10) Section 3, chapter 198, Laws of 1939 as amended by section 5, chapter 98, Laws of 1949 and RCW 16.48.180;

(11) Sections 14 and 15, chapter 98, Laws of 1949 and RCW 16.48.300 and 16.48.290;

(12) Section 12, chapter 98, Laws of 1949 as amended by section 1, chapter 160, Laws of 1951 and RCW 16.48.150; and

(13) Section 2, chapter 160, Laws of 1951 and RCW 16.48.151.

Passed the House February 26, 1959.

Passed the Senate February 25, 1959.

Approved by the Governor March 2, 1959.