

State of South Dakota

SEVENTY-SIXTH SESSION
LEGISLATIVE ASSEMBLY, 2001

400E0109

HOUSE ENGROSSED NO. **HB 1073** - 01/25/2001

Introduced by: Representative Duenwald and Senator Diedrich (Larry)

1 FOR AN ACT ENTITLED, An Act to revise certain procedures related to livestock brands,
2 proof of livestock ownership, and livestock ownership inspection.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 40-18-1.2 be amended to read as follows:

5 40-18-1.2. Terms used in chapters 40-18 to 40-22, inclusive, and 40-29 mean:

- 6 (1) "Agency," any private or nonprofit corporation, or its employees, incorporated under
7 state law, designated by the board as its authorized agent to carry out the functions
8 contracted for by the board to inspect livestock for ownership identification purposes;
- 9 (2) "Approved brand," any brand accepted for registration by the board;
- 10 (3) "Authorized bill of sale," any limited use form approved by the board to transfer
11 ownership of livestock;
- 12 (4) "Board," the South Dakota State Brand Board;
- 13 (5) "Brand ownership period," the five-year time period during which brands are valid if
14 the fees are paid;
- 15 (6) "Carrier," any person in charge of a conveyance which transports livestock;

- 1 (7) "Conflicting brand," any brand which is a duplicate of, or is similar to, or may be
2 altered to resemble, a registered brand;
- 3 (8) "Conveyance," any vehicle used to transport livestock;
- 4 (9) "Estray," any unclaimed cattle, horse, mule, sheep, or buffalo the ownership of which
5 is in question;
- 6 (10) "Evidence of ownership," any authorized bill of sale, market clearance, local
7 inspection, health certificate, current registration papers, court order, or other official
8 document or in lieu thereof an affidavit of ownership;
- 9 (11) "Healed brand," a brand that has shed the scab and for which the healing process is
10 complete;
- 11 (12) "Hold," the possession of livestock or the possession of the proceeds from the sale of
12 livestock for purposes of establishing ownership;
- 13 (13) "Hot iron," a metal instrument heated and used to brand livestock;
- 14 (14) "Inspect," to examine livestock for the purpose of determining ownership;
- 15 (15) "Inspector," any person who is authorized by the board to perform ownership
16 inspection of livestock;
- 17 (16) "Investigator," any person employed by the board to enforce the ownership inspection
18 laws;
- 19 (17) "Livestock," cattle, horses, ~~and~~ mules, sheep, and buffalo;
- 20 (18) "Local ownership inspection certificate," an ownership inspection certificate of
21 livestock ownership issued by a brand inspector at any point outside the auction
22 market;
- 23 (19) "Market clearance," an inspection certificate of ownership for livestock issued by a
24 brand inspector at a South Dakota livestock auction market;

- 1 (20) "Open market," any livestock market or shipping point where ownership inspection
- 2 is conducted by written agreement with the board;
- 3 (21) "Owner," the person to whom a recorded brand is registered or who owns cattle,
- 4 horses, mules, sheep, or buffalo;
- 5 (22) "Producer," any person engaged in the raising of livestock;
- 6 (23) "Recordable brand," any brand acceptable for registration;
- 7 (24) "Recorded brand," any brand registered with the board;
- 8 (25) "Registered brand," any recorded brand for which the fees are currently paid;
- 9 (26) "Seller," any person offering for sale or selling livestock;
- 10 (27) "Selling agent," any person engaged in livestock commerce;
- 11 (28) "Shipper," any person making delivery of livestock to a market or shipping point;
- 12 (29) "Shipper's permit," any permit to transport livestock to a market or point approved
- 13 by the board;
- 14 (30) "Slaughter," the killing of livestock for processing for human consumption;
- 15 (31) "Split brands," any brand parts of which are applied on more than one location of an
- 16 animal;
- 17 (32) "Tally," any board-approved form used by inspectors to list and describe livestock;
- 18 (33) "Trail," to herd or drive livestock from place to place without conveyance; ~~and~~
- 19 (34) "Transport," to carry by conveyance; and
- 20 (35) "Process," to cut and wrap a livestock carcass for human consumption.

21 Section 2. That § 40-19-1 be amended to read as follows:

22 40-19-1. It is a Class 1 misdemeanor to ~~hot iron~~ brand any domestic animal or other livestock
23 or to otherwise use any recordable brand for the purpose of establishing ownership, unless the
24 brand is valid as provided by law and is registered in the name of the user with the Office of the

1 State Brand Board.

2 Section 3. That § 40-19-3 be amended to read as follows:

3 40-19-3. The branding of cattle, horses, mules, and buffalo shall be done by use of either a
4 hot iron. ~~A freeze brand may, however, be applied to horses and mules~~ or freeze brand. A single
5 letter, number, figure, bar, quarter circle, half circle, or complete circle, or a half diamond, or
6 complete diamond placed on livestock are unrecordable brands under this chapter, including new
7 split-brands. However, presently recorded brands are valid as long as fees are paid and there is
8 no conflict with board policy.

9 A single letter or figure brand is recordable for sheep. A sheep brand shall be either a hot iron
10 brand or shall be applied with branding paint. No more than two colors or one color and a hot
11 iron brand may be recorded for sheep under one application fee. Authorized paint colors are
12 yellow, blue, green, black, red, or purple. No dot, bar, slash, quarter circle, circle, or the letter
13 "Q" may be registered as a sheep brand. A brand may be recorded for the side, hip, nose, or jaw
14 on either the left or right side of sheep. No brand may be recorded as "across the back" of a
15 sheep. A brand, regardless of position, is only recordable in a different color on the same
16 location.

17 Section 4. That § 40-20-26.2 be amended to read as follows:

18 40-20-26.2. The provisions of § 40-20-26.1 notwithstanding, ownership of livestock with
19 the seller's South Dakota recorded and healed brand or the owner's unbranded livestock may be
20 transferred by means of an authorized bill of sale without a brand inspection. The bill of sale shall
21 be on a form prescribed by the board. ~~A copy of an authorized bill of sale shall be forwarded to~~
22 ~~the board or its authorized inspecting agency and shall be postmarked within ten days of such~~
23 ~~ownership transfer. A violation of the forwarding requirement is a Class 2 misdemeanor. An~~
24 authorized bill of sale does not substitute for inspection of livestock being removed from the

1 ownership inspection area of South Dakota.

2 An authorized bill of sale may transfer no more than five head of livestock to any one buyer.
3 Multiple authorized bills of sale may not be executed to subdivide numbers of livestock greater
4 than five to any one buyer. The transfer of livestock without an authorized bill of sale under this
5 section or in violation of the requirements relating to the number of livestock that may be
6 transferred to a single buyer is a Class 1 misdemeanor.

7 Section 5. That § 40-20-29 be amended to read as follows:

8 40-20-29. It is a Class 1 misdemeanor for any person ~~slaughtering or processing to slaughter~~
9 or process livestock commercially within the livestock ownership inspection area ~~to kill any~~
10 ~~livestock~~, until the livestock have received an ownership inspection and the certificate of such
11 inspection is filed and is made a part of that person's permanent records. An ownership brand
12 inspection certificate on livestock is valid for no longer than four days from the date of issue.
13 Livestock arriving at slaughter destination later than four days from the date indicated on the
14 inspection certificate shall be inspected and the fee collected. All certificates of ownership
15 inspection shall, at any time upon demand, be displayed to any law enforcement officer or to the
16 board.

17 Section 6. That § 40-22-6 be amended to read as follows:

18 40-22-6. Any person who slaughters or processes livestock within the ownership inspection
19 area shall possess an ownership inspection certificate ~~for each carcass slaughtered or have the~~
20 ~~hides available for inspection with ears and tails attached, including all brands, tattoos, ear marks~~
21 ~~and other marks of identification of each carcass~~ or an authorized bill of sale. A violation of this
22 section is a Class 1 misdemeanor.

23 Section 7. That § 40-22-12 be amended to read as follows:

24 40-22-12. Any person slaughtering or processing livestock outside the ownership inspection

1 area which came from inside the ownership inspection area shall, ~~upon demand of any law~~
2 ~~enforcement officer or brand inspector, within a reasonable period of time produce a hide or~~
3 possess proof of ownership of the slaughtered livestock. A violation of this section is a Class 1
4 misdemeanor.