

State of South Dakota

EIGHTY-EIGHTH SESSION
LEGISLATIVE ASSEMBLY, 2013

417U0496

HOUSE BILL NO. 1089

Introduced by: Representatives Schrempp, Bartling, Craig, Feickert, Gibson, Heinert, Hoffman, Kirschman, Kopp, May, Miller, Nelson, Olson (Betty), Qualm, Ring, Schoenfish, Tyler, Verchio, and Wink and Senators Maher, Bradford, Frerichs, Lucas, Sutton, and Welke

1 FOR AN ACT ENTITLED, An Act to require statewide livestock ownership inspection.

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

3 Section 1. That § 40-18-2 be amended to read as follows:

4 40-18-2. At least three of the five members of the board shall be persons who derive the
5 major portion of their income from the livestock business and who are owners of brands duly
6 recorded with the board. ~~At least three of the five members of the board shall reside in the~~
7 ~~livestock ownership inspection areas.~~ No appointed member may act as a member of the board
8 while holding an elective or appointive state or federal office. No more than three of the
9 members shall be of any one political party.

10 Section 2. That § 40-18-15 be amended to read as follows:

11 40-18-15. The board may inspect all livestock moved within the ~~South Dakota livestock~~
12 ~~ownership inspection area and all livestock leaving the South Dakota livestock ownership~~
13 ~~inspection area~~ state and all livestock leaving the state for the purpose of determining the proper
14 ownership and brands, if any, of such livestock and shall have general charge, supervision, and



1 custody of all instruments, records, and files in connection with such ownership inspection
2 activities.

3 Section 3. That § 40-18-16 be amended to read as follows:

4 40-18-16. The board may promulgate rules pursuant to chapter 1-26 to:

- 5 (1) Describe prohibited brand symbols for various types of livestock and identify
6 locations on animals where a brand is permitted;
- 7 (2) Provide for the registration, transfer, and renewal of livestock brands;
- 8 (3) Establish a brand registration fee not to exceed twenty-five dollars;
- 9 (4) Establish a brand renewal fee not to exceed ten dollars per year or a brand renewal
10 fee not to exceed fifty dollars for each five-year ownership period and a brand
11 transfer fee not to exceed twenty-five dollars;
- 12 (5) Establish an ownership inspection fee not to exceed one dollar for each head of
13 livestock;
- 14 (6) Establish recordable livestock brands;
- 15 (7) Establish law enforcement, ownership inspection, and transportation requirements
16 ~~within or without the ownership inspection area;~~
- 17 (8) Establish a duplicate certificate fee not to exceed five dollars;
- 18 (9) Establish a mileage fee for inspectors not to exceed the rate set by the State Board of
19 Finance.

20 Section 4. That § 40-18-17 be amended to read as follows:

21 40-18-17. The Brand Board shall provide for the registration of livestock brands, for the
22 inspection of livestock for ownership identification purposes, and for the enforcement of laws
23 pertaining to the inspection, sale, branding, ownership, transportation, and theft of livestock
24 ~~within the ownership inspection area and the state.~~

1 Section 5. That § 40-19-10.1 be amended to read as follows:

2 40-19-10.1. No person may bring cattle branded with a brand registered in another state into
3 the ~~ownership inspection area~~ state for grazing or feeding purposes without a permit authorized
4 by the board. If the brand is a duplicate of or conflicts with a brand issued pursuant to this
5 chapter, a permit may only be issued at the discretion of the board. No permit is required if the
6 cattle are rebranded with a brand registered pursuant to this chapter. The application for a permit
7 shall be on a form approved by the board and shall be signed by the owner of the cattle. Any
8 calves born to cattle which are subject to the permit may be branded with the out-of-state brand
9 upon prior written notice to the board. The calves shall be added to the permit. No cattle or
10 calves subject to the permit may be removed from the ~~ownership inspection area~~ state, sold, or
11 slaughtered without an ownership inspection.

12 No person may brand any cattle imported into or purchased within the ~~ownership inspection~~
13 ~~area~~ state for feeding purposes with a brand registered in another state without a permit
14 authorized by the board. No permit may be issued if the brand is a duplicate of or conflicts with
15 a brand issued pursuant to this chapter. The application for a permit shall be signed by the owner
16 of the cattle. No cattle subject to the permit may be removed from the ~~ownership inspection area~~
17 state, sold, or slaughtered without an ownership inspection.

18 Cattle purchased at a licensed livestock auction market in the ~~ownership inspection area~~
19 state may be branded with the owner's out-of-state brand if the cattle are branded at the market,
20 are purchased for export from the state within two calendar days of purchase, and an
21 authorization form is obtained from the board prior to branding the cattle.

22 A violation of this section is a Class 1 misdemeanor.

23 Section 6. That § 40-20-1 be amended to read as follows:

24 40-20-1. The South Dakota livestock ownership inspection area consists of ~~all of that part~~

1 of the entire State of South Dakota ~~lying within the following counties: Harding, Butte,~~
2 ~~Lawrence, Pennington, Custer, Fall River, Perkins, Meade, Shannon, Corson, Dewey, Ziebach,~~
3 ~~Haakon, Stanley, Jackson, Jones, Mellette, Bennett, Todd, Lyman, Tripp, and Gregory.~~

4 Section 7. That § 40-20-2 be repealed.

5 ~~—40-20-2. Any county contiguous to the livestock ownership inspection area may become a~~
6 ~~part of such area upon a petition signed by a majority of the owners of livestock residing within~~
7 ~~such county to be attached, which shall be presented to the board. The board shall, in its~~
8 ~~discretion, either reject or approve such petition at its next regular or special meeting. No area~~
9 ~~in the brand inspection area may be smaller than a county.~~

10 Section 8. That § 40-20-3 be repealed.

11 ~~—40-20-3. Any county which has become a part of the livestock inspection area by petition~~
12 ~~and which adjoins a noninspection area may withdraw from the inspection area by a petition~~
13 ~~requesting withdrawal. The petition shall be signed by a majority of the owners of livestock in~~
14 ~~the county seeking withdrawal. The petition shall be filed with the board. The board shall at its~~
15 ~~next regular or special meeting enter a resolution approving the withdrawal, which action~~
16 ~~removes the county described in the petition from the ownership inspection area. No area~~
17 ~~seeking withdrawal may be smaller than a county.~~

18 Section 9. That § 40-20-4 be amended to read as follows:

19 40-20-4. Except as provided in this chapter, it is a Class 1 misdemeanor for any person to
20 remove or authorize the removal of any livestock from ~~any point within the livestock ownership~~
21 ~~inspection area to any point within one mile of the border with a destination outside the~~
22 ~~ownership inspection area~~ the state unless the livestock have first been inspected for ownership
23 and unless the shipper possesses the local inspection certificate, market clearance, shippers
24 permit, or such other form of authorization as may be required by the board. Except as provided

1 in § 40-20-29, a local inspection certificate is valid for transportation of livestock out of the
2 ~~inspection area~~ state only on the date issued. If there is no valid local inspection certificate, the
3 livestock shall be inspected before leaving the ~~inspection area~~ state. Livestock being removed
4 from the ~~ownership inspection area~~ state without authorization from the board may be
5 impounded by any law enforcement officer until the livestock are inspected for ownership by
6 an authorized brand inspector. The venue of any offense under this section is in the county
7 where such livestock were loaded or in any county through which the livestock were transported
8 or trailed. Any livestock being transported to a destination outside the ~~ownership inspection area~~
9 state shall be inspected for ownership if they cease to be in the custody of the carrier at any time
10 ~~prior to leaving the ownership inspection area~~ before leaving the state. Any livestock shipper
11 within the ~~livestock ownership inspection area~~ state wanting livestock inspected as provided in
12 this section shall notify an inspector in advance of the inspection and allow the inspector
13 reasonable time to provide the inspection.

14 Section 10. That § 40-20-4.1 be amended to read as follows:

15 40-20-4.1. Notwithstanding the provisions of § 40-20-4, an owner of any livestock who
16 wishes to move the livestock out of the ~~ownership inspection area~~ state for any purpose other
17 than sale or trade of the livestock may obtain a written permit from the board for movement of
18 the livestock. The written permit shall remain in effect for the life of the livestock described,
19 or for a specific term, and it is void if the livestock changes ownership. The fee for the permit
20 shall be established by rules promulgated pursuant to chapter 1-26. The permit fee includes the
21 costs of any inspection and the fee imposed under the provisions of § 40-18-16. A permit for
22 the transportation of horses and mules may be authorized by the board pursuant to § 40-18-16.

23 Section 11. That § 40-20-5 be amended to read as follows:

24 40-20-5. If the border of the ~~livestock ownership inspection area~~ State of South Dakota

1 divides any ranch or farm, written permission may be given by the board to the owner or lessee
2 of the ranch or farm to trail livestock out of the ~~South Dakota inspection area~~ state for grazing
3 purposes without inspection. ~~The border of the South Dakota inspection area shall be contiguous~~
4 ~~to an inspection area of an adjacent state.~~ The board may cancel such permission at any time
5 subject to the provisions of chapter 1-26.

6 Section 12. That § 40-20-6 be repealed.

7 ~~—40-20-6. Subject to the conditions set forth in §§ 40-20-7 to 40-20-12, inclusive, if livestock~~
8 ~~is transported or trailed to a designated inspection point outside the livestock ownership~~
9 ~~inspection area designated by the board as an open market, no livestock ownership inspection~~
10 ~~is required at point of origin.~~

11 Section 13. That § 40-20-7 be repealed.

12 ~~—40-20-7. In lieu of an ownership inspection, any person who intends to remove livestock~~
13 ~~from the livestock ownership inspection area for the purpose of sale or slaughter may obtain a~~
14 ~~shipper's permit from the board or its authorized agent for the transportation of livestock to a~~
15 ~~previously designated open market or slaughter plant pursuant to § 40-18-16. The permit may~~
16 ~~be obtained forty-eight hours in advance of shipment from an authorized agent of the board.~~

17 Section 14. That § 40-20-7.1 be repealed.

18 ~~—40-20-7.1. A market clearance is valid for transporting livestock out of the ownership~~
19 ~~inspection area only if the transportation originates at the market where the livestock were~~
20 ~~inspected. If the livestock are unloaded or held at any other location other than the market of~~
21 ~~origin, they shall be reinspected for ownership immediately prior to further transportation.~~

22 Section 15. That § 40-20-10 be repealed.

23 ~~—40-20-10. If authorization is required, it is a Class 1 misdemeanor for any carrier or owner~~
24 ~~to transport any livestock from the livestock ownership inspection area or to within a mile of~~

1 ~~the border with a destination outside the livestock ownership inspection area unless the carrier~~
2 ~~or owner is in possession of authorization by the board.~~

3 Section 16. That § 40-20-10.1 be repealed.

4 ~~—40-20-10.1. If livestock have been shipped to an open market and no authorization for the~~
5 ~~transportation of such livestock has been obtained, the proceeds of the sale of such livestock~~
6 ~~shall be held in trust by the operators of the open market until the board authorizes the release~~
7 ~~of the proceeds.~~

8 Section 17. That § 40-20-12 be repealed.

9 ~~—40-20-12. If livestock shipped from the livestock ownership inspection area are consigned~~
10 ~~to an open market described in § 40-20-6, it is a Class 1 misdemeanor for any person to change~~
11 ~~the consignment to a point other than a livestock market previously designated by the board as~~
12 ~~an open market, unless the livestock receive a livestock ownership inspection and the carrier~~
13 ~~receives a certificate or clearance from the board showing that all the livestock belongs to the~~
14 ~~shipper.~~

15 Section 18. That § 40-20-18 be amended to read as follows:

16 40-20-18. Any person in charge or control of any motor vehicle transporting livestock from
17 any point within the ~~livestock ownership inspection area~~ state shall, upon demand of any state
18 law enforcement officer, exhibit to the officer authorization as required pursuant to § 40-20-4.
19 It is a Class 2 misdemeanor for any person not to be in possession of such authorization if
20 required by the provisions of this section.

21 Section 19. That § 40-20-26 be amended to read as follows:

22 40-20-26. It is a Class 1 misdemeanor for any licensed livestock auction market in the
23 ~~livestock ownership inspection area~~ state to allow any livestock brought into the yards of the
24 market for purpose of sale to leave the yards until first inspected for ownership. However, if a

1 shipment of livestock arrives at any auction market ~~in the ownership inspection area~~ after
2 daylight hours, facilities shall be made available to yard such livestock separate and apart from
3 any other livestock. The auction market may sell such livestock that night, but livestock so sold
4 shall be returned to the separate yard facilities, and may not be removed therefrom until an
5 ownership inspection has been made. The livestock ownership inspector may, ~~in his discretion,~~
6 reinspect the livestock before they leave the yards of the auction market.

7 Section 20. That § 40-20-26.1 be amended to read as follows:

8 40-20-26.1. It is a Class 1 misdemeanor for any person to sell or to transfer ownership of any
9 livestock within the ~~livestock ownership inspection area~~ state without first obtaining an
10 ownership inspection, except as provided in § 40-20-26.

11 Section 21. That § 40-20-26.2 be amended to read as follows:

12 40-20-26.2. The provisions of § 40-20-26.1 notwithstanding, ownership of livestock with
13 the seller's South Dakota recorded and healed brand or the owner's unbranded livestock may be
14 transferred by means of an authorized bill of sale without a brand inspection. The bill of sale
15 shall be on a form prescribed by the board. A copy of an authorized bill of sale shall be
16 forwarded to the board. An authorized bill of sale does not substitute for inspection of livestock
17 being removed from the ~~ownership inspection area of South Dakota~~ state.

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

23 Section 22. That § 40-20-29 be amended to read as follows:

24 40-20-29. It is a Class 1 misdemeanor for any person to slaughter or process livestock

1 commercially within the ~~livestock ownership inspection area~~ state until the livestock have
2 received an ownership inspection and the certificate of such inspection is filed and is made a
3 part of that person's permanent records, or unless the person has the hide of each slaughtered
4 carcass available for inspection. An ownership brand inspection certificate on livestock is valid
5 for no longer than four days from the date of issue. Livestock arriving at slaughter destination
6 later than four days from the date indicated on the inspection certificate shall be inspected and
7 the fee collected. All certificates of ownership inspection shall, at any time upon demand, be
8 displayed to any law enforcement officer or to the board.

9 Section 23. That § 40-20-32 be amended to read as follows:

10 40-20-32. Any person who operates a drylot cattle feeding operation, within the confines of
11 permanently fenced lots ~~and within the ownership inspection area~~ may apply to the board for
12 designation as a registered feedlot. The board shall prescribe a form for this purpose. Upon
13 receipt of an application and within thirty days, the board may grant a permit if the following
14 requirements are satisfied:

- 15 (1) The operator's feedlot is a permanently fenced drylot;
- 16 (2) The operator commonly practices feeding cattle to finish for slaughter; and
- 17 (3) The operator brands all cattle carrying mixed brands, held under common ownership,
18 with a registered brand or a feedlot assigned brand approved by the board.

19 Section 24. That § 40-20-37 be amended to read as follows:

20 40-20-37. It is a Class 1 misdemeanor for any buyer of livestock at a licensed livestock
21 auction market ~~in the ownership inspection area~~, or any person on the buyer's behalf, to remove
22 any livestock from the market until the livestock have been inspected for ownership as provided
23 in § 40-20-26.

24 Section 25. That § 40-20-39 be amended to read as follows:

1 40-20-39. Livestock that is removed from the ~~ownership inspection area~~ state in violation
2 of this chapter may be inspected at any place outside the inspection area and the fee collected
3 for the inspection. The inspection does not exempt any person from prosecution for violation
4 of the inspection laws.

5 Section 26. That § 40-21-5 be repealed.

6 ~~40-21-5. To facilitate the inspection of livestock and the enforcement of chapters 40-18 to~~
7 ~~40-22, inclusive, any livestock market, slaughter facility, or inspection point, whether within or~~
8 ~~without the State of South Dakota, that meets the criteria established by the board may be~~
9 ~~designated by the board as an open market. The board shall establish criteria for designating an~~
10 ~~open market and for revoking open market status by rules promulgated pursuant to chapter 1-26.~~
11 ~~Criteria may include distance from the livestock ownership inspection area, the number of head~~
12 ~~inspected annually, compliance by the market with ownership inspection laws, adequacy of the~~
13 ~~facilities, economic feasibility, and compliance with the open market agreement. Any livestock~~
14 ~~market, slaughter facility, or inspection point designated as an open market by the board shall~~
15 ~~enter into an open market agreement with the board on such terms and conditions as may be~~
16 ~~necessary for proper brand inspection in accordance with the brand inspection laws and~~
17 ~~regulations of this state and of the state in which the livestock market, slaughter facility, or~~
18 ~~inspection point is located.~~

19 Section 27. That § 40-21-10 be amended to read as follows:

20 40-21-10. If any livestock, inspected under the provisions of this chapter or chapter 40-20
21 bears an unrecorded brand, or a recorded brand other than the brand of the person selling the
22 livestock or transporting the livestock out of the ~~ownership inspection area~~ state, and does not
23 bear the recorded brand of ~~such~~ the person, then the person selling or transporting the livestock
24 shall ~~be required to~~ establish ownership to the livestock; by presenting to the livestock

1 ownership inspector a witnessed bill of sale to the animal or by other satisfactory evidence of
2 ownership which may include an affidavit of ownership signed by the person selling or
3 transporting the livestock and witnessed by the ownership inspector. If any livestock listed on
4 the original bill of sale or affidavit of ownership are not sold or transported out of the ~~ownership~~
5 ~~inspection area~~ state, the inspector shall pick up the ownership documents and issue a receipt
6 showing the number of livestock sold or transported and the number remaining. If any livestock
7 are unbranded, the inspector may require the shipper or seller to establish ownership by
8 presenting to the inspector an affidavit of ownership. Only an original bill of sale or affidavit
9 of ownership is valid for proof of ownership. Any bill of sale or affidavit shall be notarized or
10 signed by two witnesses.

11 Section 28. That § 40-21-11 be amended to read as follows:

12 40-21-11. If any livestock inspected under the provisions of this chapter or chapter 40-20
13 bears the recorded brand of the seller or the person transporting the livestock out of the
14 ~~ownership inspection area~~ state, and also bears a recorded brand of another person, then the
15 seller or the person transporting the livestock out of the ~~ownership inspection area~~ state may be
16 required, at the discretion of the livestock ownership inspector, to establish ownership to the
17 livestock by presenting to the ownership inspector satisfactory evidence of ownership.

18 Section 29. That § 40-21-12.1 be amended to read as follows:

19 40-21-12.1. If the person transporting livestock out of the ~~ownership inspection area~~ state
20 as described in § 40-21-10 or 40-21-11 fails to establish ownership of any livestock, the board
21 may hold the livestock. If a hold has been placed on the livestock, it is a Class 1 misdemeanor
22 for the person to remove the livestock from the ~~ownership inspection area~~ state or sell the
23 livestock before the board has cleared the hold for release. Any livestock hold continuing
24 beyond sixty days shall be forwarded by the inspector to the board for review and final

1 disposition, which may include clarification, settlement, or payment related to proper ownership.

2 Section 30. That § 40-22-12 be amended to read as follows:

3 40-22-12. Any person slaughtering or processing livestock ~~outside the ownership inspection~~
4 ~~area~~ shall, upon demand of any law enforcement officer, provide names and dates of persons
5 who delivered livestock for slaughter ~~that may have originated from within the ownership~~
6 ~~inspection area~~.