

State of South Dakota

SEVENTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 1999

552C0141

HOUSE AGRICULTURE AND NATURAL RESOURCES COMMITTEE ENGROSSED NO.

HB1014 - 1/26/99

Introduced by: The Committee on Agriculture and Natural Resources at the request of the
State Brand Board

1 FOR AN ACT ENTITLED, An Act to revise certain provisions related to the regulation,
2 inspection, and transportation of livestock.

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

4 Section 1. That chapter 40-18 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 The brand board shall provide for the registration of livestock brands, for the inspection of
7 livestock for ownership identification purposes, and for the enforcement of laws pertaining to
8 the inspection, sale, branding, ownership, transportation, and theft of livestock within the
9 ownership inspection area and the state.

10 Section 2. That § 40-19-4 be amended to read as follows:

11 40-19-4. Any person desiring to use or adopt any recordable brand for livestock ownership
12 identification purposes shall make and sign an application setting forth a facsimile ~~and description~~
13 of the brand desired and file the application for registration in the office of the board.

14 Section 3. That § 40-19-5 be amended to read as follows:

15 40-19-5. ~~Priority of any person's application shall give preference right for the registration~~

1 of any certain brand. Each brand registered shall be given an official number which shall be
2 consecutive. An application for a registered brand shall be submitted on a form provided by the
3 board. Applications shall be processed in the order of their receipt and the applicant shall be
4 notified if the brand is recordable and of the fees due for registration.

5 Section 4. That § 40-19-6 be amended to read as follows:

6 40-19-6. ~~The board shall file all applications for registry or rerecording in the order of their~~
7 ~~receipt and, if the brand is recordable, issue a certificate therefor. Ownership shall date from the~~
8 ~~date of registration. If the brand is recordable, the board shall register the brand upon payment~~
9 ~~of the required fees and shall issue a certificate of registration. Ownership of a brand begins on~~
10 ~~the date of registration.~~

11 Section 5. That § 40-20-13 be repealed.

12 ~~40-20-13. Any person who transports by commercial motor carrier, truck or tractor,~~
13 ~~livestock that have not had an ownership inspection as provided by the board from any point~~
14 ~~within the livestock ownership inspection area to any other point within the livestock ownership~~
15 ~~inspection area shall have in his possession a bill of lading at all times while transporting the~~
16 ~~livestock. The authorized bill of lading shall be approved by the board. The bill of lading shall~~
17 ~~contain the name of the driver and operator of the motor vehicle, the name of the owner of the~~
18 ~~livestock, the number of head, kind of livestock, sex, brands or marks, if any, the date of~~
19 ~~transportation, the name of the owner of the motor vehicle and its license number, the place of~~
20 ~~origin of the shipment with the county and address of loading point, and the destination of the~~
21 ~~shipment and the person, firm or corporation to whom consigned.~~

22 Section 6. That § 40-20-15 be repealed.

23 ~~40-20-15. It is a Class 2 misdemeanor for a person to have his livestock transported, or for~~
24 ~~any carrier to transport livestock, as provided in § 40-20-13, without first having prepared and~~
25 ~~completed the bill of lading provided for in § 40-20-13, and both the consignor and carrier shall~~

1 ~~have signed such bill of lading, if such bill of lading is required.~~

2 Section 7. That § 40-20-18 be amended to read as follows:

3 40-20-18. Any person in charge or control of any motor vehicle transporting ~~any~~ livestock
4 from any point within the livestock ownership inspection area shall, upon demand of any state
5 law enforcement officer, exhibit to ~~such~~ the officer ~~his bill of lading to transport such livestock~~
6 ~~or his authorization, whichever may be required as provided in §§ 40-20-7 and 40-20-13 or~~
7 ~~pursuant to rule. However, the possession of a local ownership inspection certificate or a~~
8 ~~livestock market clearance shall be accepted in lieu of a bill of lading or authorization~~ as required
9 pursuant to § 40-20-4. It is a Class 2 misdemeanor for any person not to be in possession of a
10 ~~bill of lading or authorization if such possession is required pursuant to~~ such authorization if
11 required by the provisions of this section.

12 Section 8. That § 40-20-24 be amended to read as follows:

13 40-20-24. Any law enforcement officer may require any person transporting livestock to stop
14 any vehicle transporting such livestock for the purpose of examination and inspection of the ~~bill~~
15 ~~of lading, authorization, shipper's agreement~~ shipper's permit, local ownership inspection
16 certificates, livestock market clearances, bills of sale, brands, marks, or other means of
17 identification. The law enforcement officer may demand any such person to unload such
18 livestock at the nearest suitable location for further inspection and examination.

19 Section 9. That § 40-21-12 be amended to read as follows:

20 40-21-12. If the seller described in § 40-21-10 or 40-21-11 fails to establish ownership of any
21 livestock, the livestock shall be held or sold. If the livestock are held, disposition by the board
22 shall be made. If sold, the selling agent ~~who sells such livestock shall hold the proceeds of the~~
23 ~~sale, and selling agent is financially responsible for the proceeds, of such livestock until such time~~
24 ~~as the board orders the money with account of sale, released to the owner or to the South~~
25 ~~Dakota livestock ownership inspection and theft prevention fund~~ is financially responsible for the

1 proceeds of the sale and shall hold the proceeds until the board orders the money, along with
2 account of sale, released to the livestock owner or to the South Dakota livestock ownership
3 inspection fund. Such financial responsibility may be enforced by civil suit brought by the board.
4 If the inspector finds livestock carrying a recorded brand which is not the property of the
5 consignor and is not accompanied by a proper bill of sale, affidavit of ownership, or livestock
6 market clearance, ~~he shall mark his tally~~ the inspector shall designate the livestock as, Hold. The
7 inspector ~~has the discretion to~~ may sell or hold the livestock; and if sold, the selling agency shall
8 hold the proceeds from the sale for sixty days or until the consignor ~~can establish~~ establishes
9 evidence of ownership to the inspector, whichever comes first. All livestock holds after sixty
10 days shall be forwarded by the inspector to the board for review and final disposition, which may
11 include clarification, settlement, or payment related to proper ownership ~~by the inspector to the~~
12 ~~board for review and final disposition.~~ If a hold has been placed on the proceeds, it is a Class 1
13 misdemeanor for the selling agent or selling agency to disburse the proceeds to the seller or
14 consignor before the board has cleared the hold for release.

15 Section 10. That § 32-2-8.1 be amended to read as follows:

16 32-2-8.1. Arrest powers for motor carrier inspectors employed by the Division of Highway
17 Patrol are limited to violations of chapters 10-47A, 32-5, 32-9, 32-10, 32-12, 32-22, 40-19, 40-
18 20, 40-21, 49-28, and 49-28A and §§ 50-4-13 to 50-4-17, inclusive, and the rules governing
19 operation of motor carriers. Motor carrier inspectors who have been given such limited arrest
20 powers are not considered law enforcement officers for the purposes of § 23-3-27.

1 **BILL HISTORY**

2 1/12/99 First read in House and referred to Agriculture and Natural Resources. H.J. 34

3 1/26/99 Scheduled for Committee hearing on this date.

4 1/26/99 Agriculture and Natural Resources Do Pass Amended, Passed, AYES 12, NAYS 0.

5 H.J. 184