

State of South Dakota

EIGHTY-THIRD SESSION
LEGISLATIVE ASSEMBLY, 2008

444P0549

HOUSE BILL NO. 1176

Introduced by: Representatives Brunner, Halverson, Hargens, Howie, Jerke, Kirkeby, Noem, Olson (Betty), Pitts, Sigdestad, and Vanneman and Senator McNenny

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
15 custody of all instruments, records, and files in connection with such ownership inspection



1 activities.

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

3 40-18-16. The board may promulgate rules pursuant to chapter 1-26 to:

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

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

20 40-18-17. The Brand Board shall provide for the registration of livestock brands, for the
21 inspection of livestock for ownership identification purposes, and for the enforcement of laws
22 pertaining to the inspection, sale, branding, ownership, transportation, and theft of livestock
23 ~~within the ownership inspection area and the state.~~

24 Section 5. That § 40-20-1 be amended to read as follows:

1 40-20-1. The South Dakota livestock ownership inspection area consists of ~~all of that part~~
2 ~~of the~~ the entire State of South Dakota ~~lying within the following counties: Harding, Butte,~~
3 ~~Lawrence, Pennington, Custer, Fall River, Perkins, Meade, Shannon, Corson, Dewey, Ziebach,~~
4 ~~Haakon, Stanley, Jackson, Jones, Mellette, Bennett, Todd, Lyman, Tripp, and Gregory.~~

5 Section 6. That § 40-20-2 be repealed.

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

11 Section 7. That § 40-20-3 be repealed.

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

19 Section 8. That § 40-20-4 be amended to read as follows:

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

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

15 Section 9. That § 40-20-4.1 be amended to read as follows:

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

24 Section 10. That § 40-20-5 be amended to read as follows:

1 40-20-5. If the border of the ~~livestock ownership inspection area~~ State of South Dakota
2 divides any ranch or farm, written permission may be given by the board to the owner or lessee
3 of the ranch or farm to trail livestock out of the ~~South Dakota inspection area~~ state for grazing
4 purposes without inspection. ~~The border of the South Dakota inspection area shall be contiguous~~
5 ~~to an inspection area of an adjacent state.~~ The board may cancel such permission at any time
6 subject to the provisions of chapter 1-26.

7 Section 11. That § 40-20-6 be repealed.

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

12 Section 12. That § 40-20-7 be repealed.

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

18 Section 13. That § 40-20-7.1 be repealed.

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

23 Section 14. That § 40-20-10 be repealed.

24 ~~40-20-10. If authorization is required, it is a Class 1 misdemeanor for any carrier or owner~~

1 to transport any livestock from the livestock ownership inspection area or to within a mile of
2 the border with a destination outside the livestock ownership inspection area unless the carrier
3 or owner is in possession of authorization by the board.

4 Section 15. That § 40-20-10.1 be repealed.

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

9 Section 16. That § 40-20-12 be repealed.

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

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

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

22 Section 18. That § 40-20-26 be amended to read as follows:

23 40-20-26. It is a Class 1 misdemeanor for any licensed livestock auction market in the
24 livestock ownership inspection area to allow any livestock brought into the yards of the market

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

8 Section 19. That § 40-20-26.1 be amended to read as follows:

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

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

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

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

24 Section 21. That § 40-20-29 be amended to read as follows:

1 40-20-29. It is a Class 1 misdemeanor for any person to slaughter or process livestock
2 commercially within the ~~livestock ownership inspection area~~ state until the livestock have
3 received an ownership inspection and the certificate of such inspection is filed and is made a
4 part of that person's permanent records, or unless the person has the hide of each slaughtered
5 carcass available for inspection. An ownership brand inspection certificate on livestock is valid
6 for no longer than four days from the date of issue. Livestock arriving at slaughter destination
7 later than four days from the date indicated on the inspection certificate shall be inspected and
8 the fee collected. All certificates of ownership inspection shall, at any time upon demand, be
9 displayed to any law enforcement officer or to the board.

10 Section 22. That § 40-20-32 be amended to read as follows:

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

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

20 Section 23. That § 40-20-37 be amended to read as follows:

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

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

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

6 Section 25. That § 40-21-5 be repealed.

7 ~~40-21-5. To facilitate the inspection of livestock and the enforcement of chapters 40-18 to~~
8 ~~40-22, inclusive, any livestock market, slaughter facility, or inspection point, whether within or~~
9 ~~without the State of South Dakota, that meets the criteria established by the board may be~~
10 ~~designated by the board as an open market. The board shall establish criteria for designating an~~
11 ~~open market and for revoking open market status by rules promulgated pursuant to chapter 1-26.~~
12 ~~Criteria may include distance from the livestock ownership inspection area, the number of head~~
13 ~~inspected annually, compliance by the market with ownership inspection laws, adequacy of the~~
14 ~~facilities, and economic feasibility.~~