

LEGISLATIVE BILL 884

Approved by the Governor March 28, 2014

Introduced by Hansen, 42; Johnson, 23; Lathrop, 12; Schilz, 47; Wallman, 30.

FOR AN ACT relating to agriculture; to amend sections 54-701.03, 54-703, 54-704, 54-705, 54-750, 54-751, 54-752, 54-753, 54-753.06, 54-7,105, 54-7,106, 54-7,107, 54-7,108, 54-1156, 54-1159, 54-1166, 54-1173, 54-1180, 54-1181, 54-1182, 54-1183, 54-1184, and 54-1185, Reissue Revised Statutes of Nebraska, and sections 54-170, 54-1158, 54-1161, 54-1163, 54-1169, and 54-1170, Revised Statutes Supplement, 2013; to name and change the Exotic Animal Auction or Exchange Venue Act; to change, transfer, and eliminate provisions of the Livestock Auction Market Act; to change provisions relating to regulation of animals; to harmonize provisions; to repeal the original sections; and to outright repeal sections 54-1174 and 54-1177, Reissue Revised Statutes of Nebraska.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 54-170, Revised Statutes Supplement, 2013, is amended to read:

54-170 Sections 54-170 to 54-1,128 and sections 2 to 4 of this act shall be known and may be cited as the Livestock Brand Act.

Sec. 2. Section 54-1183, Reissue Revised Statutes of Nebraska, is amended to read:

~~54-1183~~ The owner or operator of any livestock auction market, as defined in section 54-1158, or packing plant located in any county outside the brand inspection area ~~created in section 54-1,109~~ may voluntarily elect to provide brand inspection for all cattle brought to such livestock auction market or packing plant from within the brand inspection area upon compliance with sections ~~54-1183 to 54-1185~~. 2 to 4 of this act.

Sec. 3. Section 54-1184, Reissue Revised Statutes of Nebraska, is amended to read:

~~54-1184~~ The election provided for by section ~~54-1183~~ 2 of this act shall be made by (1) filing with the Secretary of State, in form to be prescribed by the secretary, a written notice of such election and agreement to be bound by section ~~54-1185~~ 4 of this act and (2) posting conspicuously on the premises a notice of the fact that brand inspection is provided at such livestock auction market or packing plant.

Sec. 4. Section 54-1185, Reissue Revised Statutes of Nebraska, is amended to read:

~~54-1185~~ Inspection provided for in sections ~~54-1183 to 54-1185~~ 2 to 4 of this act shall be conducted in the manner established by the Livestock Brand Act. The owner or operator making such election may be required to guarantee to the Nebraska Brand Committee that inspection fees derived from such livestock auction market or packing plant will be sufficient, in each twelve-month period, to pay the per diem and mileage of the inspectors required and that he or she will reimburse the committee for any deficit incurred in any such twelve-month period. Such guarantee shall be secured by a corporate surety bond, to be approved by the Secretary of State, in a penal sum to be established by the Nebraska Brand Committee.

Sec. 5. Section 54-701.03, Reissue Revised Statutes of Nebraska, is amended to read:

54-701.03 For purposes of sections 54-701 to 54-753.05, and 54-797 to 54-7,103; ~~7 and 54-7,105 to 54-7,108;~~

(1) Accredited veterinarian means a veterinarian duly licensed by the State of Nebraska and approved by the deputy administrator of the Animal and Plant Health Inspection Service of the United States Department of Agriculture in accordance with 9 C.F.R. part 161, as such regulation existed on January 1, 2006; 2013;

(2) Animal means all vertebrate members of the animal kingdom except humans or wild animals at large;

(3) Bureau of Animal Industry means the Bureau of Animal Industry of the Department of Agriculture of the State of Nebraska and includes the State Veterinarian, deputy state veterinarian, veterinary field officers, livestock inspectors, investigators, and other employees of the bureau;

(4) Dangerous disease means a disease transmissible to and among livestock which has the potential for rapid spread, serious economic impact or serious threat to livestock health, and is of major importance in the trade of livestock and livestock products;

(5) Department means the Department of Agriculture of the State of

Nebraska;

(6) Director means the Director of Agriculture of the State of Nebraska or his or her designee;

(7) Domesticated cervine animal means any elk, deer, or other member of the family cervidae legally obtained from a facility which has a license, permit, or registration authorizing domesticated cervine animals which has been issued by the state where the facility is located and such animal is raised in a confined area;

~~(8) Exotic animal means any animal which is not commonly sold through licensed livestock auction markets pursuant to the Livestock Auction Market Act. Such animals shall include, but not be limited to, miniature cattle, miniature horses, miniature donkeys, Barbary sheep, Dall's sheep, alpacas, llamas, pot-bellied pigs, and small mammals, with the exception of cats of the Felis domesticus species and dogs of the Canis familiaris species. The term also includes birds and poultry. The term does not include beef and dairy cattle, calves, swine, bison, sheep sold for wool or food, goats sold for dairy, food, or fiber, and domesticated cervine animals.~~

~~(9) Exotic animal auction or swap meet means any event or location as defined in rules and regulations of the department, other than a livestock auction market as defined in section 54-1158, where (a) an exotic animal is purchased, sold, traded, bartered, given away, or otherwise transferred, (b) an offer to purchase an exotic animal is made, or (c) an exotic animal is offered to be sold, traded, bartered, given away, or otherwise transferred.~~

~~(10) Exotic animal auction or swap meet organizer means a person in charge, as identified by rule and regulation of the department, of organizing an exotic animal auction or swap meet event, and may include any person who: (a) Arranges events for third parties to have private sales or trades of exotic animals; (b) organizes or coordinates exotic animal auctions or swap meets; (c) leases out areas for exotic animal auctions or swap meets; or (d) provides or coordinates other similar arrangements involving exotic animals.~~

~~(11) (8) Exposed means being part of a herd which contains or has contained an animal infected with a disease agent which affects livestock or having had a reasonable opportunity to come in contact with an infective disease agent which affects livestock;~~

~~(12) (9) Herd means any group of livestock maintained on common ground for any purpose or two or more groups of livestock under common ownership or supervision geographically separated but which have an interchange of livestock without regard to health status;~~

~~(13) (10) Livestock means cattle, swine, sheep, horses, mules, goats, domesticated cervine animals, ratite birds, and poultry;~~

~~(14) (11) Poultry means domesticated birds that serve as a source of eggs or meat and includes, but is not limited to, chickens, turkeys, ducks, and geese;~~

~~(15) (12) Program disease means a livestock disease for which specific legislation exists for disease control or eradication;~~

~~(16) (13) Quarantine means restriction of (a) movement imposed by the department on an animal, group of animals, or herd of animals because of infection with, or exposure to, a disease agent which affects livestock and (b) use of equipment, facilities, land, buildings, and enclosures which are used or have been used by animals infected with, or suspected of being infected with, a disease agent which affects livestock;~~

~~(17) (14) Ratite bird means any ostrich, emu, rhea, kiwi, or cassowary;~~

~~(18) (15) Sale means a sale, lease, loan, trade, barter, or gift;~~

~~(19) (16) Surveillance means the collection and testing of livestock blood, tissue, hair, body fluids, discharges, excrements, or other samples done in a herd or randomly selected livestock to determine the presence or incidence of disease in the state or area of the state and may include the observation or physical examination of an animal; and~~

~~(20) (17) Veterinarian means an individual who is a graduate of an accredited college of veterinary medicine.~~

Sec. 6. Section 54-703, Reissue Revised Statutes of Nebraska, is amended to read:

54-703 (1) The Department of Agriculture and all inspectors and persons appointed and authorized to assist in the work of the department shall enforce the Exotic Animal Auction or Exchange Venue Act and sections 54-701 to 54-753.05, and 54-797 to 54-7,103, and 54-7,105 to 54-7,108 as designated.

(2) The department and any officer, agent, employee, or appointee of the department shall have the right to enter upon the premises of any person who has, or is suspected of having, any animal thereon, including any premises where the carcass or carcasses of dead livestock may be found or where a facility for the disposal or storage of dead livestock is located,

for the purpose of making any and all inspections, examinations, tests, and treatments of such animal, to inspect livestock carcass disposal practices, and to declare, carry out, and enforce any and all quarantines.

(3) The department, in consultation with the Department of Environmental Quality and the Department of Health and Human Services, may adopt and promulgate rules and regulations reflecting best management practices for the burial of carcasses of dead livestock.

(4) The Department of Agriculture ~~shall~~ may further adopt and promulgate such rules and regulations as are necessary to promptly and efficiently enforce and effectuate the general purpose and provisions of ~~such~~ sections 54-701 to 54-753.05 and 54-797 to 54-7,103.

Sec. 7. Section 54-704, Reissue Revised Statutes of Nebraska, is amended to read:

54-704 Any veterinary inspector or agent of the United States Department of Agriculture, Animal and Plant Health Inspection Service, Veterinary Services, who has been officially assigned by the United States Department of Agriculture for service in Nebraska may be officially authorized by the Department of Agriculture to perform and exercise such powers and duties as may be prescribed by the department and when so authorized shall have and exercise all rights and powers vested by the Exotic Animal Auction or Exchange Venue Act and sections 54-701 to 54-753.05, and 54-797 to 54-7,103, and ~~54-7,105 to 54-7,108~~ in agents and representatives in the regular employ of the department.

Sec. 8. Section 54-705, Reissue Revised Statutes of Nebraska, is amended to read:

54-705 The Department of Agriculture or any officer, agent, employee, or appointee thereof may call upon any sheriff, deputy sheriff, or other police officer to execute the orders of the department, and the officer shall obey the orders of the department. The officers performing such duties shall receive compensation therefor as is prescribed by law for like services and shall be paid therefor by the county. Any officer may arrest and take before the county judge of the county any person found violating any of the provisions of the Exotic Animal Auction or Exchange Venue Act and sections 54-701 to 54-753.05, and 54-7,105 to 54-7,108, and such officer shall immediately notify the county attorney of such arrest. The county attorney shall prosecute the person so offending according to law.

Sec. 9. Section 54-750, Reissue Revised Statutes of Nebraska, is amended to read:

54-750 It shall be unlawful for any person to knowingly harbor, sell, or otherwise dispose of any animal or any part thereof affected with an infectious, contagious, or otherwise transmissible disease except as provided by sections 54-701 to 54-753 and 54-7,105 to 54-7,108, and the rules and regulations prescribed by the Department of Agriculture thereunder. Any person so offending shall be deemed guilty of a Class II misdemeanor for the first violation and a Class I misdemeanor for any subsequent violation.

Sec. 10. Section 54-751, Reissue Revised Statutes of Nebraska, is amended to read:

54-751 It shall be unlawful for any person to violate any rule or regulation prescribed and promulgated by the Department of Agriculture pursuant to authority granted by the Exotic Animal Auction or Exchange Venue Act and sections 54-701 to 54-753, and 54-7,105 to 54-7,108, and any person so offending shall be guilty of a Class II misdemeanor for the first violation and a Class I misdemeanor for any subsequent violation.

Sec. 11. Section 54-752, Reissue Revised Statutes of Nebraska, is amended to read:

54-752 Any person violating any of the provisions of the Exotic Animal Auction or Exchange Venue Act and sections 54-701 to 54-753 and 54-7,105 to 54-7,108 shall be guilty of a Class II misdemeanor for the first violation and a Class I misdemeanor for any subsequent violation.

Sec. 12. Section 54-753, Reissue Revised Statutes of Nebraska, is amended to read:

54-753 The penal provisions of section 54-752 shall not be exclusive, but the district courts of this state, in the exercise of their equity jurisdiction, may, by injunction, compel the observance of, and by that remedy enforce, the provisions of the Exotic Animal Auction or Exchange Venue Act and sections 54-701 to 54-753 and 54-7,105 to 54-7,108 and the rules and regulations established and promulgated by the Department of Agriculture.

Sec. 13. Section 54-7,105, Reissue Revised Statutes of Nebraska, is amended to read:

54-7,105 (1) Sections 54-7,105 to 54-7,108 and sections 14, 18, and 19 of this act shall be known and may be cited as the Exotic Animal Auction or Exchange Venue Act.

(2) The purpose of sections 54-7,105 to 54-7,108 is to authorize the Bureau of Animal Industry to require exotic animal auction or swap meet organizers to notify the bureau of any scheduled exotic animal auction or swap meet the Exotic Animal Auction or Exchange Venue Act is to require an exotic animal auction or exchange venue organizer to obtain a permit from the department before conducting an exotic animal auction or exchange venue and to maintain records for animal disease tracking purposes. Exotic animals sold at exotic animal auctions or swap meets an exotic animal auction or exchange venue are often foreign to the United States or to the State of Nebraska. These exotic animals may carry dangerous, infectious, contagious, or otherwise transmissible diseases, including foreign animal diseases, which could pose a threat to Nebraska's livestock health and the livestock industry.

Sec. 14. For purposes of the Exotic Animal Auction or Exchange Venue Act:

(1) Accredited veterinarian has the same meaning as in section 54-701.03;

(2) Animal has the same meaning as in section 54-701.03;

(3) Animal welfare organization has the same meaning as in section 54-2503;

(4) Certificate of veterinary inspection means a legible document approved by the department, either paper copy or electronic, issued by an accredited veterinarian at the point of origin of an animal movement which records the (a) name and address of both consignor and consignee, (b) purpose of animal's movement, (c) destination in the state which includes the street address or enhanced-911 address of the premises, (d) age, breed, sex, and number of animals in the shipment, (e) description of the animals, (f) individual identification, when required, and (g) health examination date of the animals. The certificate of veterinary inspection is an acknowledgment by the accredited veterinarian of the apparent absence of any infectious, dangerous, contagious, or otherwise transmissible disease of any animal sold or offered for sale, purchased, bartered, or other change of ownership at an exotic animal auction or exchange venue;

(5) Change of ownership means the transfer within the State of Nebraska of possession or control of an animal allowed to be transferred through consignment, sale, purchase, barter, lease, exchange, trade, gift, or any other transfer of possession or control at an exotic animal auction or exchange venue;

(6) Dangerous disease has the same meaning as in section 54-701.03;

(7) Department means the Department of Agriculture of the State of Nebraska;

(8) Domesticated cervine animal has the same meaning as in section 54-701.03;

(9) Exotic animal means any animal which is not commonly sold through licensed livestock auction markets pursuant to the Livestock Auction Market Act. Such animals shall include, but not be limited to, miniature cattle (bovine), miniature horses, miniature donkeys, sheep (ovine), goats (caprine), alpacas (camelid), llamas (camelid), pot-bellied pigs (porcine), and small mammals, with the exception of cats of the Felis domesticus species and dogs of the Canis familiaris species. The term also includes birds and poultry. The term does not include beef and dairy cattle, calves, swine, bison, or domesticated cervine animals;

(10) Exotic animal auction or exchange venue means any event or location, other than a livestock auction market as defined in section 54-1158 or events by an animal welfare organization or at an animal welfare organization location, where (a) an exotic animal is consigned, purchased, sold, traded, bartered, given away, or otherwise transferred, (b) an offer to purchase an exotic animal is made, (c) an exotic animal is offered to be consigned, sold, traded, bartered, given away, or otherwise transferred, or (d) any other event or location where there is a change of ownership of an exotic animal;

(11) Exotic animal auction or exchange venue organizer means a person in charge of organizing an exotic animal auction or exchange venue event, and may include any person who: (a) Arranges events for third parties to have private sales or trades of exotic animals; (b) organizes or coordinates exotic animal auctions or exchange venues; (c) leases out areas for exotic animal auctions or exchange venues; (d) provides or coordinates other similar arrangements involving exotic animals at retail establishments such as feed and supply stores, farm implement stores, and farm and ranch stores, which allow such sales in or on the premises; or (e) takes exotic animals for consignment on behalf of third parties;

(12) Officially identified means the application of an official identification device or method approved by the United States Department of

Agriculture, Animal and Plant Health Inspection Service, Veterinary Services; and

(13) Poultry has the same meaning as in section 54-701.03.

Sec. 15. Section 54-7,106, Reissue Revised Statutes of Nebraska, is amended to read:

54-7,106 ~~An~~ (1) Each exotic animal auction or swap meet exchange venue organizer shall apply for a permit and notify the Bureau of Animal Industry department at least thirty days prior to the date on which the exotic animal auction or swap meet exchange venue is to be held. An applicant for a permit shall verify upon the application that the applicant has contracted the services of an accredited veterinarian to be present during the exotic animal auction or exchange venue as required under subsection (4) of section 54-7,108. Notification shall include the location, time, and dates of the exotic animal auction or swap meet exchange venue and the name and address of the exotic animal auction or swap meet exchange venue organizer. Notification shall be made in writing or by facsimile transmission. If a livestock auction market holds an exotic animal auction or exchange venue through its licensed livestock auction market, such livestock auction market shall comply with the Exotic Animal Auction or Exchange Venue Act for purposes of the exotic animal auction or exchange venue.

(2) The department may deny an application for a permit if the application does not satisfy the requirements of subsection (1) of this section, for previous acts or omissions of the applicant in noncompliance with the Exotic Animal Auction or Exchange Venue Act, or upon a determination that the applicant is unable to fulfill the duties and responsibilities of a permittee under the act.

(3) No person shall conduct an exotic animal auction or exchange venue without a permit issued pursuant to this section.

(4) No change of ownership of bovine, camelid, caprine, ovine, or porcine animals may occur at private treaty on the premises where the exotic animal auction or exchange venue is being held for the twenty-four-hour period prior to commencement of the exotic animal auction or exchange venue, nor for twenty-four hours following such event, unless such animals have a certificate of veterinary inspection at change of ownership.

Sec. 16. Section 54-7,107, Reissue Revised Statutes of Nebraska, is amended to read:

54-7,107 (1) An exotic animal auction or swap meet exchange venue organizer shall maintain records for each exotic animal auction or swap meet exchange venue such organizer arranges, organizes, leases areas for, consigns, or otherwise coordinates at least five years after the date of the exotic animal auction or swap meet exchange venue. The records shall include:

(a) The name, address, and telephone number of the exotic animal auction or swap meet exchange venue organizer;

(b) The name and address of all persons who purchased, sold, traded, bartered, gave away, or otherwise transferred an exotic animal at the exotic animal auction or swap meet exchange venue;

(c) The number of and species or type of each exotic animal purchased, sold, traded, bartered, given away, or otherwise transferred at the exotic animal auction or swap meet exchange venue;

(d) The date of purchase, sale, trade, barter, or other transfer of an exotic animal at the exotic animal auction or swap meet exchange venue; and

(e) ~~A~~ When required by the Animal Importation Act or the Exotic Animal Auction or Exchange Venue Act, a copy of the completed certificate of veterinary inspection, if required under the Animal Importation Act or any rules or regulations adopted and promulgated under the act or if the exotic animal is to be exported to another state, for each exotic animal purchased, sold, traded, bartered, given away, or otherwise transferred at the exotic animal auction or swap meet exchange venue.

(2) An exotic animal auction or swap meet exchange venue organizer shall, during all reasonable times, permit authorized employees and agents of the department to have access to and to copy any or all records relating to his or her exotic animal auction or swap meet exchange venue business.

(3) ~~When necessary for the enforcement of sections 54-7,105 to 54-7,108 the Exotic Animal Auction or Exchange Venue Act or any rules and regulations adopted and promulgated pursuant to such sections, act, the~~ authorized employees and agents of the department may access the records required by this section.

Sec. 17. Section 54-7,108, Reissue Revised Statutes of Nebraska, is amended to read:

54-7,108 ~~No beef or dairy cattle, calves, swine, bison, or sheep sold for wool or feed, goats sold for dairy, food, or fiber, or domesticated~~

cervine animals shall be purchased, sold, bartered, traded, given away, or otherwise transferred at an exotic animal auction or swap meet. An exotic animal auction or swap meet organizer shall contact the Bureau of Animal Industry if a particular animal cannot be readily identified as an animal that is prohibited from being purchased, sold, bartered, traded, given away, or otherwise transferred at an exotic animal auction or swap meet under this section.

(1) No beef or dairy cattle, calves, swine, bison, or domesticated cervine animals shall be, or offered to be, consigned, purchased, sold, bartered, traded, given away, or otherwise transferred at an exotic animal auction or exchange venue.

(2) An exotic animal auction or exchange venue organizer shall contact the department if a particular animal cannot be readily identified as an animal that is prohibited from being consigned, purchased, sold, bartered, traded, given away, or otherwise transferred at an exotic animal auction or exchange venue under this section.

(3) No bovine, camelid, caprine, ovine, or porcine animal shall be, or be offered to be, consigned, purchased, sold, bartered, traded, given away, or otherwise transferred at an exotic animal auction or exchange venue unless, prior to a change of ownership or other transfer of the animal, a completed certificate of veterinary inspection for such animal is presented to the exotic animal auction or exchange venue organizer. Such certificate of veterinary inspection shall be signed by an accredited veterinarian on the date of or no more than thirty days prior to the date the exotic animal auction or exchange venue is held.

(4) An exotic animal auction or exchange venue organizer shall contract with an accredited veterinarian to be present during the exotic animal auction or exchange venue for visually inspecting such exotic animals and to issue necessary certificates of veterinary inspection for change of ownership when required by the Animal Importation Act or the Exotic Animal Auction or Exchange Venue Act.

(5) All dairy goats imported into Nebraska shall have an official tuberculin test prior to import into Nebraska. All sheep and goats shall have official identification as required under the Scrapie Control and Eradication Act.

(6) A copy of the certificate of veterinary inspection shall be submitted to the department by the exotic animal auction or exchange venue organizer within seven days from the date the exotic animal auction or exchange venue was held.

(7) Any bovine, camelid, caprine, ovine, or porcine animal which is not prohibited from transfer at an exotic animal auction or exchange venue shall be officially identified prior to change of ownership.

Sec. 18. Section 54-753.06, Reissue Revised Statutes of Nebraska, is amended to read:

54-753.06 Compliance with sections 54-7,105 to 54-7,108 the Exotic Animal Auction or Exchange Venue Act does not relieve a person of the requirement to comply with the provisions of sections 37-477 to 37-479.

Sec. 19. (1) The Exotic Animal Auction or Exchange Venue Act shall be enforced by the department as provided in sections 54-703 to 54-705.

(2) The department may adopt and promulgate rules and regulations to aid in the administration and enforcement of the act. The rules and regulations may include, but are not limited to, provisions governing record keeping and any other requirements necessary for the enforcement of the act.

(3) Penalties and remedies for violations of the act and any rules and regulations adopted and promulgated pursuant to the act are in sections 54-751 to 54-753.

Sec. 20. Section 54-1156, Reissue Revised Statutes of Nebraska, is amended to read:

54-1156 Sections 54-1156 to 54-1185 54-1182 and section 23 of this act shall be known and may be cited as the Livestock Auction Market Act.

Sec. 21. Section 54-1158, Revised Statutes Supplement, 2013, is amended to read:

54-1158 As used in the Livestock Auction Market Act, unless the context otherwise requires:

(1) Accredited veterinarian means a veterinarian duly licensed by the State of Nebraska and approved by the deputy administrator of the United States Department of Agriculture in accordance with 9 C.F.R. part 161 as the regulations existed on September 1, 2001, has the same meaning as in section 54-701.03;

(2) Department means the Department of Agriculture;

(3) Designated veterinarian means an accredited veterinarian who has been designated and authorized by the State Veterinarian to make inspections

of livestock at livestock auction markets as may be required by law or regulation whether such livestock is moved in interstate or intrastate commerce;

(4) Director means the Director of Agriculture;

(5) Livestock means cattle, calves, swine, sheep, and goats;

(6) Livestock auction market means any place, establishment, or facility commonly known as a livestock auction market, sales ring, or the like, conducted or operated for compensation as an auction market for livestock, consisting of pens or other enclosures, and their appurtenances, in which livestock are received, held, sold, or kept for sale or shipment;

(7) Livestock auction market operator means any person engaged in the business of conducting or operating a livestock auction market, whether personally or through agents or employees;

(8) Market license means the license for a livestock auction market authorized to be issued under the act;

(9) Person means any individual, firm, association, partnership, limited liability company, or corporation; and

(10) State Veterinarian means the veterinarian in charge of the Bureau of Animal Industry within the department or his or her designee, subordinate to the director.

Sec. 22. Section 54-1159, Reissue Revised Statutes of Nebraska, is amended to read:

54-1159 (1) The Livestock Auction Market Act shall not be construed to include:

~~(1) (a) Any place or operation where Future Farmers of America, 4-H groups, or private fairs conduct sales of livestock;~~

(b) An animal welfare organization as defined in section 54-2503;

~~(2) (c) Any place or operation conducted for a dispersal sale of the livestock of farmers, dairypersons, or livestock breeders or feeders, where no other livestock is sold or offered for sale; or~~

~~(3) (d) Any place or operation where a breeder or an association of breeders of livestock assemble and offer for sale and sell under their own management any livestock, when such breeders assume all responsibility of such sale and the title of livestock sold. This shall apply to all purebred livestock association sales.~~

(2) An exotic animal auction or exchange venue or an exotic animal auction or exchange venue organizer as defined in section 14 of this act is not required to be licensed under the Livestock Auction Market Act if any bovine, camelid, caprine, ovine, or porcine allowed to be sold under the Exotic Animal Auction or Exchange Venue Act are accompanied by a certificate of veterinary inspection issued by an accredited veterinarian and the exotic animal auction or exchange venue organizer contracts for the services of an accredited veterinarian to issue such certificates onsite during the auction or exchange venue for bovine, camelid, caprine, ovine, or porcine present.

Sec. 23. The owner or operator of any livestock auction market located in any county outside the brand inspection area created in section 54-1,109 may voluntarily elect to provide brand inspection as provided in sections 2 to 4 of this act.

Sec. 24. Section 54-1161, Revised Statutes Supplement, 2013, is amended to read:

54-1161 No person shall conduct or operate a livestock auction market unless he or she holds a market license therefor, upon which the current annual market license fee has been paid. Any person making application for a new market license shall do so to the director in writing, verified by the applicant, on a form prescribed by the department, showing the following:

(1) The name and address of the applicant ~~and, if the applicant is an individual, his or her social security number,~~ with a statement of the names and addresses of all persons having any financial interest in the applicant and the amount of such interest;

(2) Financial responsibility of the applicant in the form of a statement of all assets and liabilities;

(3) A legal description of the property and its exact location with a complete description of the facilities proposed to be used in connection with such livestock auction market;

(4) The schedule of charges an applicant proposes for all services proposed to be rendered; and

(5) A detailed statement of the facts upon which the applicant relies showing the general confines of the trade area proposed to be served by such livestock auction market, the benefits to be derived by the livestock industry, and the services proposed to be rendered.

Such application shall be accompanied by the annual fee as prescribed in section 54-1165.

Sec. 25. Section 54-1163, Revised Statutes Supplement, 2013, is amended to read:

54-1163 The hearing required by section 54-1162 shall be heard by the director, ~~and the State Veterinarian.~~ If the director ~~and the State Veterinarian determine,~~ determines, after such hearing, that the proposed livestock auction market would beneficially serve the livestock economy, the department shall issue a market license to the applicant. In determining whether or not the application should be granted or denied, reasonable consideration shall be given to:

- (1) The ability of the applicant to comply with the federal Packers and Stockyards Act, 1921, 7 U.S.C. 181 et seq., as amended;
- (2) The financial stability, business integrity, and fiduciary responsibility of the applicant;
- (3) The adequacy of the facilities described to permit the performance of market services proposed in the application;
- (4) The present needs for market services or additional services as expressed by livestock growers and feeders in the community; and
- (5) Whether the proposed livestock auction market would be permanent and continuous.

Sec. 26. Section 54-1166, Reissue Revised Statutes of Nebraska, is amended to read:

54-1166 Except as otherwise provided in this section, each market license shall be personal to the holder and the facilities covered thereby and transferable without a hearing. The original or a certified copy of such license shall be posted during sale periods in a conspicuous place on the premises where the livestock auction market is conducted. The market license covering any livestock auction market which does not hold a sale for a period of one year shall terminate automatically one year from the date of the last sale conducted by the livestock auction market, and the license holder whose license is so terminated may request a hearing by filing a written request for such hearing within twenty days after the termination of the license.

Sec. 27. Section 54-1169, Revised Statutes Supplement, 2013, is amended to read:

54-1169 (1) The department may, upon its own motion, whenever it has reason to believe the Livestock Auction Market Act has been violated, or upon verified complaint of any person in writing, investigate the actions of any market license holder, and if the department finds probable cause to do so, shall file a complaint against the market license holder which shall be set down for hearing before the director ~~and the State Veterinarian~~ upon fifteen days' notice served upon such market license holder either by personal service upon him or her or by registered or certified mail ~~or telegram~~ prior to such hearing.

(2) The director shall have the power to administer oaths, certify to all official acts, and subpoena any person in this state as a witness, to compel the producing of books and papers, and to take the testimony of any person on deposition in the same manner as is prescribed by law in the procedure before the courts of this state in civil cases. Processes issued by the director shall extend to all parts of the state and may be served by any person authorized to serve processes. Each witness who shall appear by the order of the director at any hearing shall receive for such attendance the same fees allowed by law to witnesses in civil cases appearing in the district court and mileage at the same rate provided in section 81-1176, which amount shall be paid by the party at whose request such witness is subpoenaed. When any witness has not been required to attend at the request of any party, but has been subpoenaed by the director, his or her fees and mileage shall be paid by the director in the same manner as other expenses are paid under the Livestock Auction Market Act.

(3) All powers of the director as provided in this section shall likewise be applicable to hearings held on applications for the issuance of a market license.

(4) Formal finding by the director ~~and the State Veterinarian~~ after due hearing that any market license holder (a) has ceased to conduct a livestock auction market business, (b) has been guilty of fraud or misrepresentation as to the titles, charges, number, brands, weights, proceeds of sale, or ownership of livestock, (c) has violated any of the provisions of the Livestock Auction Market Act, or (d) has violated any of the rules or regulations adopted and promulgated under the act, shall be sufficient cause for the suspension or revocation of the market license of the offending livestock auction market operator.

Sec. 28. Section 54-1170, Revised Statutes Supplement, 2013, is amended to read:

54-1170 The director shall keep a complete transcript an audio

recording of all proceedings and evidence presented in any hearing under the Livestock Auction Market Act. The applicant for a market license, any protestant formally appearing in the hearing for such market license, the holder of any market license suspended or revoked, or any party to a transfer application may appeal the order, and the appeal shall be in accordance with the Administrative Procedure Act.

Sec. 29. Section 54-1173, Reissue Revised Statutes of Nebraska, is amended to read:

54-1173 The license and permit fees collected as provided by the Livestock Auction Market Act are an occupation tax and shall be remitted to the State Treasurer for credit to the Livestock Auction Market Fund. All money so collected shall be appropriated to the uses of the Department of Agriculture for the purpose of administering such act and shall be paid out only on vouchers approved by the director and upon the warrant or warrants issued by the Director of Administrative Services. Any unexpended balance in such fund at the close of any biennium shall, when reappropriated, be available for the uses and purposes of the fund for the succeeding biennium, ~~otherwise it shall lapse into the General Fund.~~

Sec. 30. Section 54-1180, Reissue Revised Statutes of Nebraska, is amended to read:

54-1180 All cattle, calves, swine, sheep, and goats, upon entering a livestock auction market, shall be inspected for health before being offered for sale. Such inspection shall be made by a designated veterinarian. The fees for such inspection shall be established by rules and regulations of the State Veterinarian department and shall be collected by the operator of the livestock auction market. Such fees shall be used to pay the fees of necessary inspections and for no other purpose and shall be remitted as may be provided by regulation. The fees shall be remitted to the State Treasurer for credit to the Livestock Auction Market Fund and shall be expended exclusively to pay the fees of providing necessary inspections at the livestock auction market which has remitted such fees. Each designated veterinarian making market inspections shall be paid twenty-five dollars for each regularly scheduled sale day in each calendar month as a guaranteed minimum salary for providing adequate inspection services. If the fees collected each calendar month by the market operator do not equal such amount, the market operator shall make up the difference in his or her remittance to the state. The rules and regulations establishing fees for such inspection shall not be adopted, amended, or repealed until after notice by mail to each market licensee and designated veterinarian of the time and place of hearing on the question of adoption, amendment, or repeal of such rules and regulations; such notice shall be mailed at least ten days prior to the date of hearing and shall be sufficient if addressed to the last-known address of each market licensee and designated veterinarian shown on the records of the department.

Sec. 31. Section 54-1181, Reissue Revised Statutes of Nebraska, is amended to read:

54-1181 The State Veterinarian shall make the designation of the veterinarians required by sections 54-1180 and 54-1182 by entering into an agreement with any accredited veterinarian for his or her professional services in performing necessary inspections. Such agreement shall provide that the State Veterinarian may terminate it at any time for what he or she deems to be just cause and shall further provide that the state pay such veterinarian a fee as established by section 54-1180, which amount shall be paid monthly from the Livestock Auction Market Fund. Such agreement shall make the designated veterinarian an agent for the Department of Agriculture to perform the duties assigned by sections 54-1180 and 54-1182, and the rules and regulations prescribed by the State Veterinarian, department, but shall not be deemed to make the designated veterinarian an officer or employee of the state. The orders of such designated veterinarian, issued in the performance of the duties assigned under sections 54-1180 and 54-1182 and the rules and regulations prescribed by the State Veterinarian, department, shall have the same force and effect as though such order had been made by the State Veterinarian. Designated veterinarians shall not be liable for reasonable acts performed to carry out the duties as set forth in sections 54-1180 and 54-1182 and the rules and regulations prescribed by the State Veterinarian department pursuant to such sections.

Sec. 32. Section 54-1182, Reissue Revised Statutes of Nebraska, is amended to read:

54-1182 Any livestock sold or disposed of at a livestock auction market, before removal therefrom, shall be released by the designated veterinarian and treated to conform with the health requirements of the rules and regulations prescribed by the State Veterinarian department for the movement of livestock. When required, the designated veterinarian shall

furnish each owner with documentation showing such inspection, treatment, or quarantine. No such livestock for interstate or intrastate shipment shall be released until all the requirements of the state of its destination have been complied with. Any diseased or exposed livestock shall be handled in accordance with the rules and regulations as prescribed by the State Veterinarian department.

Sec. 33. Original sections 54-701.03, 54-703, 54-704, 54-705, 54-750, 54-751, 54-752, 54-753, 54-753.06, 54-7,105, 54-7,106, 54-7,107, 54-7,108, 54-1156, 54-1159, 54-1166, 54-1173, 54-1180, 54-1181, 54-1182, 54-1183, 54-1184, and 54-1185, Reissue Revised Statutes of Nebraska, and sections 54-170, 54-1158, 54-1161, 54-1163, 54-1169, and 54-1170, Revised Statutes Supplement, 2013, are repealed.

Sec. 34. The following sections are outright repealed: Sections 54-1174 and 54-1177, Reissue Revised Statutes of Nebraska.