

H-3/30/95 Agriculture
H 4-11-95 DBP

FILED MAR 16 1995

SENATE FILE 402
BY COMMITTEE ON AGRICULTURE

(SUCCESSOR TO LSB 2446SC)

Passed Senate, Date (p.936) 3-29-95 Passed House, Date (p.1566) 4/13/95
Vote: Ayes 49 Nays 0 Vote: Ayes 95 Nays 0
Approved April 24, 1995

A BILL FOR

1 An Act relating to brands registered by the department of
2 agriculture and land stewardship and providing for penalties.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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SENATE FILE 402

S-3221

1 Amend Senate File 402 as follows:
2 1. Page 1, line 8, by inserting after the word
3 "brand" the following: "or tattoo".
4 2. Page 1, line 14, by inserting after the word
5 "cattle," the following: "swine,"

By PATTY JUDGE
THD AWIN

S-3221 FILED MARCH 23, 1995

3-29-95 (p.935)

S.F. 402

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1 Section 1. Section 169A.1, Code 1995, is amended to read
2 as follows:

3 169A.1 DEFINITIONS.

4 When used in this chapter:

5 1. "Brand" means an identification mark that is burned
6 into the hide of a live animal by a hot iron or another method
7 approved by the secretary. A brand shall include a cryo-
8 brand.

9 2. "~~Cryo-branding~~" "Cryo-brand" means a brand produced by
10 application of extreme cold temperature.

11 3. ~~---"Person" means an individual, firm, association,~~
12 ~~partnership, or corporation, the singular shall also mean the~~
13 ~~plural where applicable.~~

14 3. "Livestock" means horses, cattle, sheep, mules, or
15 asses.

16 Sec. 2. Section 169A.2, Code 1995, is amended to read as
17 follows:

18 169A.2 ADOPTION OF BRAND.

19 Any person ~~having cattle, sheep, horses, mules, or asses~~
20 ~~shall have the right to~~ owning livestock may adopt a brand for
21 the use of which the purpose of branding the livestock. The
22 person shall have the exclusive right to use the brand in this
23 state, after recording such the brand as provided in sections
24 169A.4 and 169A.6 or 169A.9.

25 Sec. 3. Section 169A.3, Code 1995, is amended to read as
26 follows:

27 169A.3 MUST BE RECORDED.

28 ~~No evidence~~ Evidence of an animal's ownership shall not be
29 established in court by the animal's brand, shall be permitted
30 in any court in this state unless the animal is livestock, the
31 brand shall be complies with the requirements of this chapter,
32 and the brand is recorded as provided in sections 169A.4 and
33 169A.6 or 169A.9. In no case shall cryo-brands be accepted as
34 evidence of ownership.

35 Sec. 4. Section 169A.6, Code 1995, is amended to read as

1 follows:

2 169A.6 CERTIFIED ~~COPIES~~ COPY FURNISHED.

3 As soon as the brand is recorded by the secretary, the
4 secretary shall furnish the owner ~~thereof~~ of the brand with
5 ~~two a certified copies~~ copy of the record of ~~such the~~ the brand.

6 Sec. 5. Section 169A.7, Code 1995, is amended to read as
7 follows:

8 169A.7 UNLAWFUL USE OF BRAND ~~--~~ PENALTY.

9 ~~It shall be unlawful to~~ A person shall not use any brand
10 for branding ~~any-horses, cattle, sheep, mules, or asses~~
11 livestock, unless the brand has been recorded as provided by
12 this chapter. ~~Hot-brands and cryo-brands~~ A person may use an
13 unrecorded hot brand or an unrecorded cryo-brand, consisting
14 only of Arabic numerals only, may be used if the person uses
15 the unrecorded brand in conjunction with the person's recorded
16 brands brand, and ~~only for within-the-herd-identification-and~~
17 ~~as-such-shall-not-be-recorded, and when so used~~ purposes of
18 identifying animals within a herd. However, the unrecorded
19 brand shall not be evidence of ownership. ~~Anyone~~ A person
20 convicted of violating this section shall be guilty of a
21 ~~simple~~ an aggravated misdemeanor.

22 Sec. 6. Section 169A.10, Code 1995, is amended to read as
23 follows:

24 169A.10 EVIDENCE OF OWNERSHIP.

25 In ~~all suits~~ a suit at law or equity or in any criminal
26 proceedings in which the title to ~~animals~~ livestock is an
27 issue, ~~the~~ a certified ~~copies~~ copy recorded as provided for in
28 section 169A.6 or 169A.9 shall be prima facie evidence of the
29 ownership of ~~such-animal~~ the livestock by the person in whose
30 name the brand is recorded. ~~Disputes-in~~ A dispute involving
31 the custody or ownership of branded-animals livestock branded
32 under this chapter shall be investigated, on request, by the
33 sheriff of the county where the ~~animals-are~~ livestock is
34 located ~~and-the~~. The sheriff may call upon the services of an
35 authorized person, approved by the secretary of agriculture,

1 in reading the brands on animals. The cost of such the
2 services shall be borne paid by the person requesting the
3 investigation. The results of the sheriff's investigation
4 shall be a public record and be is admissible in as evidence.

5 Sec. 7. Section 169A.11, Code 1995, is amended to read as
6 follows:

7 169A.11 PUBLICATION OF BRANDS LIST.

8 ~~It shall be the duty of the~~ The secretary from time to time
9 to shall cause to be published in book form a list of all
10 brands on record at the time of such the publication. Such
11 The secretary may supplement the lists ~~may be supplemented~~
12 from time to time. The publication shall contain a facsimile
13 of all brands recorded and the owner's name and post-office
14 address. The records shall be arranged in convenient form for
15 reference. ~~It shall be the duty of the~~ The secretary ~~to send~~
16 shall deliver one copy of the brand book and supplements to
17 the ~~county recorder~~ sheriff of each county. Such The books
18 and supplements shall be delivered without cost to the county
19 and. The books and supplements shall be ~~kept as a matter of~~
20 public record records as provided in chapter 22. The
21 secretary may sell the books and supplements ~~may be sold~~ to
22 the general public at the cost of printing and mailing each
23 book.

24 Sec. 8. Section 169A.13, Code 1995, is amended to read as
25 follows:

26 169A.13 FEE EACH FIFTH YEAR.

27 Each owner of a brand of record beginning on January 1,
28 1970, shall pay to the secretary a fee of five dollars and a
29 renewal fee on January 1 of each fifth year after the payment
30 of the five dollar fee, or on January 1 of each fifth year
31 following the original recording of a brand recorded after
32 June 30, 1975. The amount of the renewal fee required for
33 January 1, 1976, and each year thereafter shall be established
34 by rule of the secretary pursuant to chapter 17A. Such The
35 amount of the fee shall be based upon the administrative costs

1 of maintaining the brand program provided for in this chapter.
2 ~~It shall be the duty of the~~ The secretary to shall notify
3 every owner of a brand of record at least thirty days prior to
4 the date of the renewal period. ~~The secretary shall give a~~
5 ~~receipt for all such payments made and if any~~ If the owner of
6 a brand of record ~~shall fail, refuse, or neglect to~~ does not
7 pay such the fee by July 1 of each year in which it is due,
8 such the owner shall forfeit the brand ~~shall become forfeited~~
9 and no the brand shall no longer ~~carried in the record~~ be
10 recorded. Any such A forfeited brand shall not be issued to
11 any other person ~~within a period of less than~~ for five or more
12 years following date of forfeiture.

13 Sec. 9. NEW SECTION. 169A.16 ELIMINATION OF COMPETING
14 BRANDS -- FEE WAIVER.

15 The department shall notify any person who has registered a
16 brand pursuant to this chapter, if the brand is the same as
17 another brand registered pursuant to this chapter. The notice
18 shall provide that effective July 1, 1996, all duplicate
19 brands shall be eliminated based on the priority established
20 pursuant to this section. First, brands shall be eliminated
21 which are not used to mark or identify livestock, if duplicate
22 brands are used to mark or identify livestock. Second, all
23 brands shall be eliminated except for the brand which was
24 registered pursuant to this chapter for the longest period of
25 time. In calculating the date of registration, the department
26 shall not count any period during which a registration has
27 lapsed. The transfer of a brand under this chapter shall not
28 affect the brand's registration date. A person whose brand
29 has been eliminated and who registers a new brand under this
30 chapter is not required to pay a recording fee as provided in
31 section 169A.4.

32 Sec. 10. REPEALS.

- 33 1. Section 169A.15, Code 1995, is repealed.
34 2. Section 169A.16, as enacted in this Act, is repealed on
35 July 1, 1998.

EXPLANATION

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2 This bill amends chapter 169A, which provides for the
3 brands registered with the department of agriculture and land
4 stewardship. Currently, the chapter provides that a cryo-
5 brand cannot be registered. This bill provides that a cyro-
6 brand is eligible for registration. A cyro-brand is a brand
7 produced by application of extreme cold temperature. Section
8 169A.6 provides that once a brand is recorded, the owner must
9 receive two certified copies of the record. The bill provides
10 that the department is not required to furnish more than one
11 copy. Section 169A.7 provides that a person who uses an
12 unlawful brand is guilty of a simple misdemeanor. The bill
13 provides that the violation is an aggravated misdemeanor.
14 Section 169A.11 provides that a copy of a brand book and
15 supplements must be delivered to the county recorder. The
16 bill provides that the county sheriff is responsible for
17 maintaining the brand book. Section 169A.13 provides that the
18 secretary of agriculture must provide a receipt for payments
19 made for renewals. The bill eliminates this requirement. The
20 bill provides that the department must eliminate brands which
21 are duplicated effective July 1, 1996. First, brands must be
22 eliminated which are not used to mark or identify livestock,
23 before brands which are used to mark or identify livestock.
24 Second, all brands must be eliminated except for the brand
25 which was registered pursuant to this chapter for the longest
26 time. The bill repeals the provision regarding duplicate
27 brands on July 1, 1998. The bill also repeals section
28 169A.15, which provides for the effect of prior brands.

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SENATE FILE 402

AN ACT

RELATING TO BRANDS REGISTERED BY THE DEPARTMENT OF AGRICULTURE AND LAND STEWARDSHIP AND PROVIDING FOR PENALTIES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section 169A.1, Code 1995, is amended to read as follows:

169A.1 DEFINITIONS.

When used in this chapter:

1. "Brand" means an identification mark that is burned into the hide of a live animal by a hot iron or another method approved by the secretary. A brand shall include a cryo-brand.

2. "Cryo-branding" "Cryo-brand" means a brand produced by application of extreme cold temperature.

~~3. "Person" means an individual, firm, association, partnership, or corporation; the singular shall also mean the plural where applicable.~~

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Any person ~~having cattle, sheep, horses, mules, or asses shall have the right to owning livestock may~~ adopt a brand for the ~~use of which the purpose of branding the livestock.~~ The person shall have the exclusive right to use the brand in this state, after recording such the brand as provided in sections 169A.4 and 169A.6 or 169A.9.

Sec. 3. Section 169A.3, Code 1995, is amended to read as follows:

169A.3 MUST BE RECORDED.

~~No evidence~~ Evidence of an animal's ownership shall not be established in court by the animal's brand, shall be permitted in any court in this state unless the animal is livestock, the brand shall be complies with the requirements of this chapter, and the brand is recorded as provided in sections 169A.4 and 169A.6 or 169A.9. ~~In no case shall cryo-brands be accepted as evidence of ownership.~~

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169A.10 EVIDENCE OF OWNERSHIP.

In ~~all suits~~ a suit at law or equity or in any criminal proceedings in which the title to animals livestock is an

issue, the a certified copies copy recorded as provided for in section 169A.6 or 169A.9 shall be prima facie evidence of the ownership of such-animal the livestock by the person in whose name the brand is recorded. ~~Disputes-in~~ A dispute involving the custody or ownership of branded-animals livestock branded under this chapter shall be investigated, on request, by the sheriff of the county where the ~~animals-are~~ livestock is located and-the. The sheriff may call upon the services of an authorized person, approved by the secretary of-agriculture, in reading the brands on animals. The cost of such the services shall be borne paid by the person requesting the investigation. The results of the sheriff's investigation shall be a public record and be is admissible in as evidence.

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169A.13 FEE EACH FIFTH YEAR.

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Sec. 9. NEW SECTION. 169A.16 ELIMINATION OF COMPETING BRANDS -- FEE WAIVER.

The department shall notify any person who has registered a brand pursuant to this chapter, if the brand is the same as another brand registered pursuant to this chapter. The notice shall provide that effective July 1, 1996, all duplicate brands shall be eliminated based on the priority established pursuant to this section. First, brands shall be eliminated which are not used to mark or identify livestock, if duplicate brands are used to mark or identify livestock. Second, all brands shall be eliminated except for the brand which was registered pursuant to this chapter for the longest period of time. In calculating the date of registration, the department shall not count any period during which a registration has

lapsed. The transfer of a brand under this chapter shall not affect the brand's registration date. A person whose brand has been eliminated and who registers a new brand under this chapter is not required to pay a recording fee as provided in section 169A.4.

Sec. 10. REPEALS.

1. Section 169A.15, Code 1995, is repealed.
2. Section 169A.16, as enacted in this Act, is repealed on July 1, 1998.

LEONARD L. BOSWELL
President of the Senate

RON J. CORBETT
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 402, Seventy-sixth General Assembly.

JOHN F. DWYER
Secretary of the Senate

Approved April 24, 1995

TERRY E. BRANSTAD
Governor