

Revised  
September, 1997

NEBRASKA LIVESTOCK DEALER LICENSING ACT

Administration: This Act is administered by the Nebraska Department of Agriculture, Bureau of Animal Industry, State Office Building, 301 Centennial Mall South, Lincoln, Nebraska 68509. Telephone: (402) 471-2351.

Revisions: The provisions of this Act were last revised during the 1997 session of the Nebraska Legislature.

Rules: A regulation has been promulgated under this Act, known as Title 23, Chapter 11, Nebraska Administrative Code - Livestock Dealer Regulations.

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54-1701. Public policy. Sections 54-1701 to 54-1711 shall be deemed an exercise of the police powers of the State of Nebraska for the protection of the agricultural public to facilitate the control and prevention of diseases in domestic animals by requiring compliance with the laws of this state enacted for that purpose together with such regulations as may have been or may be made pursuant thereto. It is, therefor, declared to be the public policy of this state that all dealers as defined in sections 54-1701 to 54-1711 shall be subject to sections 54-1701

to 54-1711, and that all the provisions of sections 54-1701 to 54-1711 shall be liberally construed for the accomplishment of this purpose.

54-1702. Act, how cited. Sections 54-1701 to 54-1711 may be cited as the Nebraska Livestock Dealer Licensing Act.

54-1703. Terms, defined. As used in sections 54-1701 to 54-1711, unless the context otherwise requires:

- (1) Department shall mean the Department of Agriculture;
- (2) Director shall mean the Director of Agriculture;
- (3) State Veterinarian shall mean the person officially appointed to this position by the director;
- (4) Livestock shall mean cattle, sheep, and swine;
- (5) Livestock dealer shall mean any person, partnership, limited liability company, association, or corporation who is engaged in the business of buying or selling livestock for the purpose of resale within this state either for his or her own account or as the employee or agent of the seller or purchaser, except an agent or employee who buys and sells exclusively for the account of a licensed dealer. Livestock dealer shall also include those who buy or sell from a concentration point. Livestock dealer shall not include a person or persons engaged in a farm or ranch operation who purchases livestock for utilization of same as an integral part of the livestock and livestock product production of his farm or ranch operation or purebred sales held by the breed registry associations or the purchase or sale of livestock primarily used for research, experimentation, exhibition or entertainment purposes, including sales by the Future Farmers of America or 4-H groups; and
- (6) Concentration point shall mean any place of business where livestock is assembled for resale.

54-1704. Livestock dealer; license; application; bond; form; renewal; fee; disposition. No person as defined in sections 54-1701 to 54-1711 as a livestock dealer shall:

- (1) Engage in the business of buying, selling, or otherwise dealing in livestock in this state without a valid and effective license issued by the Director of Agriculture under the provisions of this section. All applications for a livestock dealer license or renewal of such license shall be made on forms prescribed for that purpose by the State Veterinarian. If the applicant is an individual, the application shall include the applicant's social security number. The department may by rule and regulation prescribe additional information to be contained

in such application. The application shall be filed annually with the department on or before October 1 of each year with the applicable fee of fifty dollars. The license fees collected as provided by sections 54-1701 to 54-1711 shall be deposited in the state treasury, and by the State Treasurer placed in 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 the provisions of sections 54-1701 to 54-1711;

(2) (a) Engage in the business of buying, selling, or otherwise dealing in livestock in this state without filing with the department, in connection with his or her application for a license, a fully executed duplicate of a valid and effective bond: (i) If he or she is registered and bonded under the provisions of the Packers and Stockyards Act of 1921 (7 U.S.C. 181 et seq.) he or she shall file a statement in the form prescribed by the department evidencing that he or she is maintaining a valid and effective bond or its equivalent under such act; or (ii) if he or she is not registered and bonded under the provisions of the Packers and Stockyards Act, he or she shall furnish in connection with his or her application for a license a fully executed duplicate of a valid and effective bond in the amount of five thousand dollars or such larger amount as may be specified by regulations promulgated by the department. (b) The bond shall contain the following conditions: (i) That the principal shall pay when due to the person or persons entitled thereto the purchase price of all livestock purchased by such principal for his or her own account or for the accounts of others and such principal shall safely keep and properly disburse all funds, if any, which come into his or her hands for the purpose of paying for livestock purchased for the accounts of others; (ii) that any person damaged by failure of the principal to comply with the condition clause of the bond may maintain suit to recover on the bond; and (iii) that at least thirty days' notice in writing shall be given to the department by the party terminating the bond; or

(3) Continue in the business of a dealer after his or her license or bond has expired, or has been suspended or revoked.

54-1705. State Veterinarian; powers. The State Veterinarian shall have the power to:

(1) Enter premises and buildings occupied by a licensee at any reasonable time to examine books and records maintained by the licensee;

(2) Require, by general or special order, livestock dealers to file with the State Veterinarian, in such forms as he may prescribe, regular or special reports or answers, in writing to specific questions, for the purpose of furnishing information

concerning livestock movement and animal disease control. Such reports may be required to be made under oath and filed within a reasonable time;

(3) Defer the granting of a license as required by sections 54-1701 to 54-1711 or suspend or revoke any such license already issued if licensee has violated the laws or regulations of this state pertaining to disease control and eradication or has knowingly committed or participated in the violation of an order or quarantine or other disciplinary order issued by the department; Provided, that before any license is suspended or revoked under this section, the licensee or applicant shall be furnished with a copy of the charges made against him and upon request of the licensee a hearing shall be had before the director or his designate; and

(4) Defer the granting of a license as required by sections 54-1701 to 54-1711 or suspend or revoke any such license already issued if the licensee has failed to pay the person or persons entitled thereto the purchase price of all livestock purchased for his own account or for the accounts of others; Provided, that before any license is suspended or revoked under this section, the licensee or applicant shall be furnished with a copy of the charges made against him and upon request of the licensee a hearing shall be had before the director or his designate.

54-1706. Violations; order to appear; notice; hearing; appeal.

(1) Whenever the director or the State Veterinarian has reason to believe that any person has violated any of the provisions of the Nebraska Livestock Dealer Licensing Act or any rules or regulations adopted and promulgated under the act, an order may be entered requiring such person to appear before the director and show cause why an order should not be entered requiring such person to cease and desist from the violations charged. Such order shall set forth the alleged violations, fix the time and place of the hearing, and provide for notice thereof which shall be given not less than twenty days before the date of such hearing. After a hearing, or if the person charged with such violation fails to appear at the time of such hearing, if the director finds such person to be in violation, he or she shall enter an order requiring such person to cease and desist from the specific acts, practices, or omissions.

(2) Any person aggrieved by any order entered by the director or other action of the director may appeal the order or action, and the appeal shall be in accordance with the Administrative Procedure Act.

54-1707. Hearings; procedure; order; appeal. (1) Hearings shall be conducted by the director or by a hearing officer designated by him or her. Provision shall be made to insure that any such hearing officer other than the director shall not have

participated in the performance of investigative or prosecuting functions in the case to which he or she is assigned. The hearing shall be conducted in an impartial manner by the hearing officer who may administer oaths, rule upon offers of proof and objections, and take such other action as may be necessary. He or she shall not be bound by formal rules of evidence as observed in courts of law but shall exclude irrelevant, immaterial, or unduly repetitious evidence. The burden of proof and of proceeding with the evidence shall be on the department, and every party shall have the right to compulsory process, to representation by counsel of his or her own choosing, and to cross-examination of and confrontation by witnesses against him or her.

(2) Whenever any hearing is conducted by any person other than the director, the person conducting the same shall render a recommended decision with appropriate proposed findings and orders disposing of all the relevant matters of fact and law involved in the proceeding. Thereafter the case may be remanded to the person or persons who conducted the hearing with such instructions as the director may deem appropriate, or the director himself or herself may perform such function and may conduct a new or supplemental hearing. The director may dispense with a recommended decision and proceed to the rendering of his or her final order thereon with appropriate findings of fact on the basis of the entire record as certified to him or her by the person conducting the hearing. Prior to each recommended and each final decision, the parties shall be afforded an opportunity to submit proposed findings, briefs, and arguments as the director may deem appropriate.

(3) Any person aggrieved by any order entered by the director or other action taken by the department may appeal the order or action, and the appeal shall be in accordance with the Administrative Procedure Act.

54-1708. State Veterinarian; rules and regulations; adopt; inspections; fees. (1) The State Veterinarian shall, subject to the approval of the director, adopt rules and regulations necessary to carry out the purposes, provisions, and intent of sections 54-1701 to 54-1711.

(2) The State Veterinarian shall make the designation of the veterinarian required by the provisions of sections 54-1701 to 54-1711 by entering into an agreement with any duly licensed 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. Such contract shall make the veterinarian an agent for the Department of Agriculture to perform the duties assigned by sections 54-1701 to 54-1711 and the rules and regulations prescribed by the State Veterinarian,

but shall not be deemed to make the veterinarian an officer or employee of the state. The orders of such veterinarian, issued in the performance of the duties assigned him or her by sections 54-1701 to 54-1711 and the rules and regulations prescribed by the State Veterinarian shall have the same force and effect as though such order had been made by the State Veterinarian. Veterinarians, designated in accordance with the requirements of this section, shall not be liable for reasonable acts performed to carry out the duties as set forth in sections 54-1701 to 54-1711 and the rules and regulations prescribed by the State Veterinarian.

(3) Fees for such inspection and release shall be paid by the licensee.

54-1709. Licensed dealer; records; contents; access. Every dealer required to be licensed under the provisions of sections 54-1701 to 54-1711 shall keep such records and accounts as shall fully and correctly disclose all purchases, sales or transfers involving livestock transactions consummated in connection with his business. The records pertaining to such business shall also disclose the true ownership of such business by stockholders or otherwise and shall contain such information as the director or State Veterinarian may prescribe including the manner in which such records shall be kept. Every licensee 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 business.

54-1710. Facility; standards; State Veterinarian; prescribe; concentration points; inspection; approval. Livestock moving in commerce handled by dealers covered by the provisions of sections 54-1701 to 54-1711 and held at a facility shall be held at a facility conforming to standards prescribed by regulation by the State Veterinarian, and in no case shall the standards be less than the standards prescribed for livestock auction markets. Such facility shall not be used unless it has been approved by the State Veterinarian.

Livestock moving into a concentration point shall not be removed from the premises until such livestock has been inspected and released by the approved veterinarian. No livestock shall be released from a concentration point until all the requirements of the State of Nebraska or the state of destination, whichever applies, shall have been met.

54-1711. Violations; penalty. Any livestock dealer who violates any of the provisions of sections 54-1701 to 54-1711 or any rule or regulation promulgated thereunder, or any order of the department after such order has become final or upon termination of any review proceeding where the order has been sustained by a

court of law, shall be guilty of a Class III misdemeanor. Each day of continued violation shall constitute a separate offense.

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