

DOMESTICATED CERVINE ANIMAL STATUTES

- Administration: These statutes provide authority to the Game and Parks Commission and the Nebraska Department of Agriculture, State Office Building, 301 Centennial Mall South, Lincoln, Nebraska 68509, telephone: (402) 471-2351.
- Revision: These statutes were revised during the 2014 session of the Nebraska Legislature.
- Rules: A regulation has been promulgated under these statutes, known as Title 23, Chapter 16, Nebraska Administrative Code - Domesticated Cervine Animal Regulations.

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37-505. Game animals, birds, or fish; possession or sale prohibited; exceptions; violation; penalty. (1) It shall be unlawful to buy, sell, or barter the meat or flesh of game animals or game birds whether such animals or birds were killed or taken within or outside this state. Except as otherwise provided in this section, it shall be unlawful to buy, sell, or barter other parts of game animals or game birds.

(2) It shall be lawful to buy, sell, or barter only the following parts of legally taken antelope, deer, elk, rabbits, squirrels, and upland game birds: The hides, hair, hooves, bones, antlers, and horns of antelope, deer, or elk, the skins, tails, or feet of rabbits and squirrels, and the feathers or skins of upland game birds.

(3) It shall be lawful to pick up, possess, buy, sell, or barter antlers or horns which have been dropped or shed by antelope, deer, or elk. It shall be unlawful to pick up, possess, buy, sell, or barter mountain sheep or any part of a mountain sheep except (a) as permitted by law or rule or regulation of the commission and (b) for possession of mountain sheep or any part of a mountain sheep lawfully obtained in this state or another state or country.

(4) The commission may provide by rules and regulations for allowing, restricting, or prohibiting the acquisition, possession, purchase, sale, or barter of discarded parts, including, but not limited to, horns and antlers, or parts of dead game animals and upland game birds which have died from natural causes or causes which were not associated with any known illegal acts, which parts are discovered by individuals.

(5) Any domesticated cervine animal as defined in section 54-701.03 or any part of such an animal may be bought, sold, or bartered if the animal or parts are appropriately marked for proof of ownership according to rules and regulations adopted and promulgated by the Department of Agriculture.

(6) It shall be unlawful to buy, sell, or barter any sport fish protected by the Game Law at any time whether the fish was killed or taken within or outside this state, except that game fish lawfully shipped in from outside this state by residents of this state or fish lawfully acquired from a person having an aquaculture permit or, in the case of bullheads, pursuant to section 37-545 may be sold in this state. The burden of proof shall be upon any such buyer, seller, or possessor to show by competent and satisfactory evidence that any game fish in his or her possession or sold by him or her was lawfully shipped in from outside this state or was lawfully acquired from one of such sources.

(7) Any person violating this section shall be guilty of a Class III misdemeanor and shall be fined at least fifty dollars.

37-524. Aquatic invasive species; wild or nonnative animals; importation, possession, or release; prohibition; violation; penalty. (1) It shall be unlawful for any person, partnership, limited liability company, association, or corporation to import into the state or possess aquatic invasive species, the animal known as the San Juan rabbit, or any other species of wild vertebrate animal, including domesticated cervine animals as defined in section 54-701.03, declared by the commission following public hearing and consultation with the Department of Agriculture to constitute a serious threat to economic or ecologic conditions, except that the commission may authorize by specific written permit the acquisition and possession of such species for educational or scientific purposes. It shall also be unlawful to release to the wild any nonnative bird or nonnative mammal without written authorization from the commission. Any person, partnership, limited liability company, association, or corporation violating the provisions of this subsection shall be guilty of a Class IV misdemeanor. (2) Following public hearing and consultation with the Department of Agriculture, the commission may, by rule and regulation, regulate or limit the importation and possession of any aquatic invasive species or wild vertebrate animal, including a domesticated cervine animal as defined in section 54-701.03, which is found to constitute a serious threat to economic or ecologic conditions.

54-701.03. Terms, defined. For purposes of sections 54-701 to 54-753.05 and 54-797 to 54-7,103:

(1) Accredited veterinarian means a veterinarian duly licensed by the State of Nebraska and approved by the 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, 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) 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;

(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;

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

(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;

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

(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;

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

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

(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

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

54-2302. Act, how cited. Sections 54-2302 to 54-2324 shall be known and may be cited as the Domesticated Cervine Animal Act.

54-2303. Legislative findings. The Legislature finds and declares that the production of domesticated cervine animals contributes to the strength of the economy of this state. The Legislature further declares that the Department of Agriculture under the powers and duties provided by law for the protection of the health of livestock is the appropriate agency to adopt, promulgate, and enforce rules and regulations necessary to control disease, importation, identification, issuing of permits, containment, and escape of domesticated cervine animals.

54-2304. Terms, defined. For purposes of the Domesticated Cervine Animal Act, unless the context otherwise requires:

(1) Commission means the Game and Parks Commission or its authorized agent;

(2) Department means the Department of Agriculture or its authorized agent;

(3) Director means the Director of Agriculture or his or her designee;

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

(5) Person means any individual, firm, group of individuals, partnership, limited liability company, corporation, unincorporated association, cooperative, or other entity, public or private.

54-2305. Domesticated cervine animal facility permit required; when. On and after January 1, 2000, it is unlawful for any person to own, possess, buy, sell, or barter any domesticated cervine animal in this state unless such animal is individually identified and kept at a premises for which a domesticated cervine animal facility permit has been issued by the department. Permits shall be issued only after a determination that the applicant is in compliance with the Domesticated Cervine Animal Act. This section shall not be construed to require a municipal, state, or federal zoo, park, refuge, or wildlife area, a bona fide circus or animal exhibit, or any private, nonprofit zoological society to obtain a permit in order to own, possess, buy, sell, or barter a domesticated cervine animal, but such facilities shall be governed by the provisions of the act and the rules and regulations promulgated thereunder regarding the testing, control, and eradication of cervidae diseases including chronic wasting disease.

54-2306. Permit; application; fee; penalty; expiration of permit. (1) On and after August 1, 1999, any person required to obtain a permit under section 54-2305 shall file an application with the department in the manner established by the department. Such application shall include:

- (a) The name, residence, and place of business of the applicant;
- (b) The exact description of the land upon which the domesticated cervine animal facility is to be located and the nature of the applicant's title to the land, whether in fee or under lease; and
- (c) The kind and number of domesticated cervine animals authorized to be kept or reared in such facility.

(2) 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. The annual fee for a domesticated cervine animal facility permit shall not be less than ten dollars nor more than two hundred dollars, as established by the department. Permittees not filing by October 1 shall be considered delinquent. The department may impose a penalty for delinquency, not to exceed one hundred dollars per month or a portion of a month, in addition to the permit fees. Such permits shall expire on December 31 of the year of issuance.

54-2307. Denial of permit; when. The department may deny a domesticated cervine animal facility permit to an applicant who is or has been convicted of violating the laws or regulations of this state or any other state pertaining to domesticated cervine animals or has knowingly committed or participated in the violation of an order of quarantine or other disciplinary order issued by the department.

54-2308. Permit; conditions; inspection of facility; fee. (1) No person shall be issued a domesticated cervine animal facility permit under section 54-2305 without proof of initial inspection and approval of the minimum construction requirements established under this section.

(2) The department shall inspect and approve or disapprove:

(a) The initial construction and new construction of perimeter fencing; and

(b) The initial construction and new construction of a handling facility which is capable of sorting and restraining individual animals for testing, identification, treatment, or other purposes deemed necessary by the department.

(3) The department may inspect and approve or disapprove:

(a) The maintenance of perimeter fencing; and

(b) The maintenance of a handling facility which is capable of sorting and restraining individual animals for testing, identification, treatment, or other purposes deemed necessary by the department.

(4) The department shall, in consultation with the commission, adopt and promulgate rules and regulations specifying the minimum initial construction, subsequent new construction, and maintenance requirements of perimeter fencing and handling facilities and shall establish a fee to defray the expenses associated with inspecting domesticated cervine animal facilities.

54-2309. Permitholder; reports. The department may require, by general or special order, a permitholder under the Domesticated Cervine Animal Act to file with the department, on such forms as prescribed, regular or special reports or answers, in writing, to specific questions for the purpose of furnishing information concerning any activity undertaken. Special reports shall be made under oath and filed within thirty days.

54-2310. Permitholder; duties; probation; suspension; revocation; procedure; reinstatement. (1) A permitholder under the Domesticated Cervine Animal Act shall comply with the act, the rules and regulations adopted and promulgated pursuant thereto, and any order of the director issued pursuant thereto. The permitholder shall not interfere with the department in the performance of its duties.

(2) A permitholder may be put on probation requiring such person to comply with the conditions set out in an order of probation issued by the director after: (a) The director determines the permitholder has not complied with subsection (1) of this section; (b) the permitholder is given written notice to comply and written notice of the right to a hearing and to show cause why an order of probation should not be issued; and (c) the director finds that issuing an order of probation is appropriate, based on the hearing record or on the available information, if the hearing is waived by the permitholder.

(3) A permit may be suspended after: (a) The director determines the permitholder has not complied with subsection (1) of this section; (b) the permitholder is given written notice to comply and written notice of a right to a hearing to show cause why the permit should not be suspended; and (c) the director finds that issuing an order suspending the permit is appropriate, based on the hearing record or on the available information, if the hearing is waived by the permitholder.

(4) A permit may be immediately suspended and the director may order the permitholder's facility closed prior to hearing when:

(a) The director determines an immediate danger to the health of livestock exists due to infectious, contagious, transmissible diseases in or caused by the permitholder's facility; (b) the director determines that an immediate danger to the health of wildlife exists due to infectious, contagious, transmissible diseases in or caused by the permitholder's facility; and (c) the permitholder receives the written notice to comply and written notice of the right to a hearing to show cause why the suspension should not be sustained. Within fifteen days after the suspension, the permitholder may request, in writing, a date for a hearing and the director shall consider the interests of the permitholder when the department establishes the date and time of the hearing, except that no hearing shall be held earlier than is reasonable under the circumstances. When a permitholder does not request a hearing date within such fifteen-day period, the director shall establish a hearing date and shall notify the permitholder of the date and time of such hearing.

(5) A permit may be revoked after: (a) The director determines the permitholder has committed serious, repeated, or multiple violations of any of the requirements of subsection (1) of this section; (b) the permitholder is given written notice to comply and written notice of the right to a hearing to show cause why the permit should not be revoked; and (c) the director finds that issuing an order revoking the permit is appropriate based on the hearing record or on the available record or on the available information if the hearing is waived by the permitholder.

(6) Any domesticated cervine animal facility for which a permit has been suspended may possess, while correcting the violation, but may not buy, sell, or barter animals, or parts thereof, until the permit is reinstated. Any domesticated cervine animal facility for which a permit has been revoked shall be permitted to dispose of all animals on its premises, with approval of the department, within thirty days after the issuance of the order of revocation and shall close and remain closed until a new permit is issued.

(7) The director may terminate proceedings to suspend or revoke a permit or to subject a permitholder to an order of probation at any time if the reasons for such proceedings no longer exist. A permit which has been suspended may be reinstated. A person with a revoked permit may be issued a new permit. A permitholder may no longer be subject to an order of probation if the director determines the conditions which prompted the suspension, revocation, or probation no longer exist.

(8) Proceedings for suspension, revocation, or probation shall not preclude the department from pursuing other civil or criminal actions.

54-2311. Notice or order; service; hearing; procedure; appeal. (1) Any notice or order under the Domesticated Cervine Animal Act shall be personally served on the permitholder or on the person authorized by the permitholder to receive notices and orders of the department or shall be sent by certified mail, return receipt requested, to the last-known address of the permitholder or the person authorized to receive such notices and orders. A copy of the notice and the order shall be filed in the records of the department.

(2) A notice to comply under section 54-2310 shall state the acts or omissions with which the permitholder is charged.

(3) A notice of the permitholder's right to a hearing under section 54-2310 shall state the time and place of the hearing except as provided in subsection (4) of section 54-2310 and shall include notice that the permitholder's right to a hearing may be waived pursuant to subsection (5) of this section. A notice of the permitholder's right to a hearing to show cause why the permit should not be revoked shall include notice to the permitholder that the permit may be revoked or suspended, that the permitholder may be subject to an order of probation, and that the permit may be suspended and the permitholder subject to an order of probation, if the director determines such action is appropriate. A notice of the permitholder's right to a hearing to show cause why the permit should not be suspended shall include notice to the permitholder that the permit may be suspended and that the permitholder may also be subject to an order of probation if the director determines such action is appropriate.

(4) The hearings provided for in the act shall be conducted by the director at the time and place the director designates. The director shall make a final finding based upon the complete hearing record and issue an order. If the director has suspended a permit pursuant to subsection (4) of section 54-2310, the director shall sustain, modify, or rescind the order. All hearings shall be in compliance with the Administrative Procedure Act.

(5) A permitholder is deemed to waive the right to a hearing if such permitholder does not come to the hearing at the time and place set forth in the notice described in subsection (3) of this section without requesting the director at least two days before the designated time to change the time and place for the hearing, except that before an order of the director becomes final, the director may designate a different time and place for the hearing if the permitholder makes a showing to the director that the permitholder had a justifiable reason for not coming to the hearing and not timely requesting a change in the time and place for such hearing. If the permitholder waives the right to a hearing, the director shall make a final finding based upon available information and issue an order. If the director has suspended a permit pursuant to subsection (4) of section 54-2310, the director shall sustain, modify, or rescind the order.

(6) Any person aggrieved by the finding of the director has ten days from the entry of the director's order to request a new hearing if such person can show a mistake of fact has been made which affected the director's determination. Any order of the director becomes final upon the expiration of ten days after its entry if no request for a new hearing is made.

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

54-2312. Animal identification. A domesticated cervine animal, or any part thereof, shall be appropriately marked for proof of ownership according to rules and regulations adopted by the department. The department shall adopt and promulgate rules and regulations specifying the acceptable forms of domesticated cervine animal identification in a manner which visibly distinguishes a domesticated cervine

animal from wild cervidae. The department, in consultation with the commission, shall establish separate identification or proof of ownership requirements for transporting taken domesticated cervine animals.

54-2313. Luring or enticement of wildlife prohibited. The luring or enticement of wildlife into a permitted domesticated cervine animal facility for the purpose of containing such wildlife is cause for permit suspension under section 54-2310 and shall be considered a violation of section 37-479. Any permitholder under the Domesticated Cervine Animal Act who lures or entices wildlife into such a facility is responsible for any and all expenses incurred by the commission to remove such wildlife from the facility.

54-2314. Quarantine; department; powers. (1) In order to prevent, suppress, control, and eradicate dangerous transmissible diseases among the domesticated cervine animals of this state, the department may place in quarantine any county, or part of any county, any private premises, or any private or public stockyards and may quarantine any domesticated cervine animal infected with such disease or which has been or is suspected of having been exposed to such disease. Such animals shall remain under quarantine until released by the department. An infected animal may be destroyed as provided by section 54-747.

(2) The department may regulate or prohibit the arrival into, departure from, and movement within the state of any domesticated cervine animal infected with a dangerous transmissible disease or exposed or suspected of having been exposed to such disease.

54-2315. Cost of testing. When testing of domesticated cervine animals is performed pursuant to an order by the department, the owners of such animals are responsible for the cost of gathering, confining, restraining, and testing such animals and for providing the necessary facilities and assistance.

54-2316. Escape; recapture or destroy animal. (1) Any permitholder under the Domesticated Cervine Animal Act shall, within twenty-four hours after the discovery of the escape of any such animals, notify the department, which shall immediately notify the commission, of such escape.

(2) It is the responsibility of the permitholder to recapture or destroy any escaped domesticated cervine animal within five days.

(3) If the permitholder is unwilling or unable to capture any escaped domesticated cervine animal within five days after the discovery of such escape, the commission may destroy such escaped animals. The commission may, on a case-by-case basis, extend the number of days for a permitholder to recapture or destroy any escaped domesticated cervine animal.

(4) Any escaped domesticated cervine animal known to have originated from an area placed under quarantine by the department pursuant to section 54-2314 may be destroyed by the commission upon notice of the escape of such animal.

(5) Any expenses incurred by the department or the commission to recapture or destroy escaped domesticated cervine animals shall be assessed to the permit holder. The department and the commission shall not be held liable for the value of any domesticated cervine animal destroyed under this section.

54-2317. Wild cervidae; duties upon discovery. Any permit holder under the Domesticated Cervine Animal Act shall, within twenty-four hours after the discovery of wild cervidae in a domesticated cervine animal facility, notify the commission and the department of such occurrence. The commission shall adopt policies providing for the disposition of wild cervidae found in a domesticated cervine animal facility and shall consult with the department before removal of such animals from the facility.

54-2318. Rules and regulations. The department may adopt and promulgate rules and regulations for the testing, control, and eradication of diseases, including, but not limited to, chronic wasting disease, brucellosis, and tuberculosis in domesticated cervine animal herds in the state. The rules and regulations may include, but are not limited to, provisions governing:

- (1) Testing, test results, and test subjects;
- (2) Intrastate change of ownership, including provisions requiring all domesticated cervine breeding animals to be tested or originate from a herd which is in a herd certification program as established by the department under section 54-2319; and
- (3) Any other issues deemed necessary by the department to effectively control and eradicate diseases.

54-2319. Herd certification program authorized. In addition to administering the Domesticated Cervine Animal Act and conducting program activities authorized by the act, the department may develop a herd certification program and may cooperate with the United States Government, or any department, agency, or officer thereof, in the development of such program, including the adoption of or reference to applicable federal regulations or industry guidelines.

54-2320. Domesticated Cervine Animal Cash Fund; created; use; investment. The department may assess and collect costs for services provided and expenses incurred pursuant to its responsibilities under the Domesticated Cervine Animal Act. All costs assessed and collected pursuant to the act shall be remitted to the State Treasurer for credit to the Domesticated Cervine Animal Cash Fund, which fund is hereby created. The fund shall be utilized by the department for the purpose of carrying out the act. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

54-2321. Administration of act. In administering the Domesticated Cervine Animal Act, the agents and employees of the department:

(1) Shall have access, upon notification, to any premises where domesticated cervine animals may be for the purpose of implementing the rules and regulations adopted and promulgated under the act; and

(2) May enter any premises occupied by a permitholder at any reasonable time to examine books and records maintained by the permitholder. Such books and records shall be maintained by the permitholder for review for five years after the death or disposal of any domesticated cervine animal from the facility.

54-2322. Commission; access to premises. The commission shall have access, upon notification, to any premises where domesticated cervine animals may be for the purpose of assessing or removing populations of wild cervidae.

54-2323. Enforcement of act; violations; penalties. (1) In order to insure compliance with the Domesticated Cervine Animal Act, the department may apply for a temporary restraining order, a temporary or permanent injunction, or a mandatory injunction against any person violating or threatening to violate the act or the rules and regulations adopted and promulgated under the act. The district court of the county where the violation is occurring or is about to occur has jurisdiction to grant such relief upon good cause shown. Relief may be granted notwithstanding the existence of any other remedy at law and shall be granted without bond.

(2) The Attorney General or the county attorney of the county in which violations of the act, rules, or regulations are occurring or about to occur shall, when notified of such violation or threatened violation, cause appropriate proceedings under subsection (1) of this section to be instituted and pursued without delay.

(3) Any person who violates the Domesticated Cervine Animal Act or any rules or regulations adopted and promulgated pursuant to the act is guilty of a Class IV misdemeanor for the first offense and a Class II misdemeanor for each subsequent offense.

54-2324. Act; how construed. Nothing in the Domesticated Cervine Animal Act shall be construed to authorize any person to import, own, or possess any species of cervine animal the importation or possession of which is prohibited under section 37-524 and the rules and regulations promulgated thereunder.

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