

NEBRASKA APIARY ACT AND RELATED STATUTE

Administration: This Act is administered, in part, by the Nebraska Department of Agriculture, State Office Building, 301 Centennial Mall South, Lincoln, Nebraska 68509; telephone: (402) 471-2394. Some responsibilities under the Act are administered by the University of Nebraska.

Revisions: The provisions of this Act were last revised during the 2004 session of the Nebraska Legislature. The related statute was added during the 2011 Legislative session.

Rules: A regulation has been promulgated under this Act, known as Title 25, Chapter 1, Nebraska Administrative Code - Nebraska Apiary Act Regulations.

(Note: A regulation has been promulgated under the related statute, 81-2,181, known as Title 19, Chapter 3, Nebraska Administrative Code - Nebraska Honey Standards Regulations and is located in the Administration section.)

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81-2,165. Beekeeping; inspections; rules and regulations; duties of department and director. The department is authorized to enforce the Nebraska Apiary Act. The director may make or cause to be made all necessary examinations and inspections and adopt and promulgate such rules, regulations, and orders as may be necessary to carry out the duties of the department under the act. The department within its authority and funding appropriated to carry out the purposes of the act may take all measures necessary to prevent the introduction, spread, or dissemination of any and all contagious or infectious diseases, parasites, or pests of honeybees and to bring or cause to be brought actions and proceedings in the name of the people of the State of Nebraska to fulfill its duties under the act.

81-2,165.01. Act, how cited. Sections 81-2,165 to 81-2,180 shall be known and may be cited as the Nebraska Apiary Act.

81-2,165.02. Beekeeping; legislative intent; responsibility for education. It is the intent of the Legislature that the department is not responsible for education regarding good beekeeping practices and education intended to aid in the protection of the apicultural interests in the state from bee diseases, parasites, or pests.

It is further the intent of the Legislature that the University of Nebraska provide such education in accordance with the transfer of appropriations to the university for this purpose.

81-2,166. Terms, defined. For purposes of the Nebraska Apiary Act, unless the context otherwise requires:

- (1) Abandoned apiary shall mean any apiary not regularly attended in accordance with good beekeeping practices and which constitutes a disease, parasite, or pest hazard to the beekeeping industry;
- (2) Apiary shall mean any place where one or more colonies of bees or nuclei of bees are located;
- (3) Bee equipment shall mean hives, supers, frames, veils, gloves, or any other apparatus, tool, machine, vehicle, or device used in the handling, moving, or manipulating of bees, honey, wax, or hives, including containers of honey or wax which may be used in any apiary or in transporting bees and their products and apiary supplies;
- (4) Beekeeping shall mean the moving, raising, and producing of bees, beeswax, and honey which is an agricultural pursuit;
- (5) Bees shall mean any stage of the common honeybee, *Apis mellifera* L.;
- (6) Colony shall mean the aggregate of worker bees, drones, the queen, and developing young bees living together as a family unit in a hive or other dwelling;
- (7) Department shall mean the Department of Agriculture;
- (8) Director shall mean the Director of Agriculture or his or her designated representative, employee, or authorized agent;
- (9) Disease shall mean American foulbrood, European foulbrood, chalkbrood, sacbrood, paralysis, or any other abnormal condition of egg, larva, pupa, or adult stages of bees;

(10) Exotic disease, parasite, or pest shall mean any disease, parasite, or pest not known to be established in this state;

(11) Hive shall mean a frame hive, box hive, box, barrel, log gum, skep, or any other receptacle or container, natural or artificial, or any part thereof, which is used or employed as a domicile for bees;

(12) Nuclei shall mean a small mass of bees and combs of brood used in forming a new colony;

(13) Parasite shall mean any harmful organism living in or on bees, including, but not limited to, *Varroa jacobsoni*, *Acarapis woodi*, and *Tropilaelaps clareae*; and

(14) Pest shall mean any harmful subspecies of the honeybee *Apis mellifera*, including, but not limited to, *Apis mellifera scutellata*.

Words used in the act shall be construed to import either the plural or singular, as the case demands.

81-2,167. Beekeeping; department; inspection; purpose; violations. In order to carry out its duties under the Nebraska Apiary Act or any rule, regulation, or order made pursuant to the act, the officers and employees of the department may at all reasonable times enter upon any public or private premises for the purpose of inspection for the existence of or for treatment or destruction of any contagious or infectious diseases, parasites, or pests of bees. They shall have free access to all apiaries, structures, bee equipment, or premises where bees, honey, used bee equipment, or comb in apiaries may be. They may open any hive, colony, package, or receptacle of any kind containing or which they have reason to believe contains any bees, comb, bee products, used beekeeping equipment, or anything else which is capable of transmitting diseases, parasites, or pests of bees. They may stop pedestrians, motor cars, and vehicles when they are likely to be carrying, contrary to the act or any rule, regulation, or order established pursuant to the act, any bees, comb, used bee equipment, or anything else which is capable of transmitting diseases, parasites, or pests of bees. They shall have authority to inspect or reinspect at any time or place any bees, bee products, or used bee equipment shipped in or into the state and to treat it as provided in section 81-2,171. It shall be unlawful to deny such access to the officers and employees of the department or to offer any resistance to, thwart, or hinder such officers and employees by misrepresentation or by concealing facts or conditions. They shall have the power to inspect any apiary, honey house, building, or portion of building or container in which honey is stored, graded, or processed and to determine whether or not any insanitary conditions exist. If it is found that insanitary conditions exist or are permitted to exist, the owner or person in charge, after being notified by the department of the insanitary conditions, shall place such apiary, honey house, building, or portion of building or container in a sanitary condition within a reasonable length of time, and any operator or owner of such apiary, honey house, building, or container failing to obey such notice shall be in violation of the act and shall be punished as provided in section 81-2,179. Each apiary not located at the owner's or operator's place of residence shall have posted in a conspicuous place the name and address of the owner.

81-2,168. Beekeeping; inspection; notice to owner; University of Nebraska; duties.

If upon inspection of any bee colonies in the state the existence of diseases, parasites, or pests are found, the owner or person in charge of the bees, after being notified by the department of the nature of the disease, parasite, or pest shall use the best method of treating such disease, parasite, or pest.

Within the appropriation provided, the University of Nebraska shall provide information for beekeepers regarding the best method of preventing or treating such disease, parasite, or pest. When establishing the best method of prevention or treatment, the University of Nebraska shall consider (1) the specific disease, parasite, or pest found, (2) the severity of the infestation, (3) the time of year such disease, parasite, or pest was found, (4) the effectiveness of current control methods, and (5) any other factors deemed necessary by the University of Nebraska to effectively control the disease, parasite, or pest.

81-2,169. Beekeeping; infected bees or apiaries; nuisance; destruction. Infected shipments, apiaries in which the existing disease, parasite, or pest cannot be successfully treated, apiaries which are affected by a disease, parasite, or pest amenable to treatment but which have not been treated as provided in section 81-2,168, and apiaries having bees in hives without movable frames or any colonies of bees or shipments of used bee equipment which entered this state illegally are declared to be a public nuisance and menace to the community, and the officers and employees of the department may destroy by burning or otherwise, without any remuneration to the owner, any box hives or infected bees, hives, or used bee equipment found therein.

81-2,170. Beekeeping; contagion or infection; duty of owner to report to department; quarantine; when; notice; effect. (1) It shall be unlawful for any person knowingly to keep in his or her possession, without proper treatment, any colony of bees affected with any bee diseases, parasites, or pests or to expose any diseased or parasitized colony or infected hive or bee equipment so that flying bees may have access to them. Any person who knows that bees owned or controlled by him or her are affected with contagious or infectious diseases, parasites, or pests shall at once report such fact to the department stating all facts known to him or her with reference to the contagion or infection. When it has been determined that contagious or infectious diseases, parasites, or pests have been found in an apiary, such apiary may be quarantined by the department until released by the department. Whenever American foulbrood is found in the apiary, no colony, honey, or bee equipment of any kind shall be removed from the apiary unless under special written permit issued by the department. A notice shall be posted in each yard so quarantined, and written notice shall be sent to the owner or person in charge. Should any state be willing to accept bees or used bee equipment from a quarantined yard of bees in Nebraska, the department may, after all known contagious or infectious diseases, parasites, or pests have been destroyed, issue a special permit allowing bees and used bee equipment to be moved out of the state. (2) If an exotic disease, parasite, or pest is found to have been introduced into this state, the director shall have the authority to quarantine any portion of this state until he or she can determine whether the disease, pest, or parasite has spread and may take action to eradicate or prevent the spread of the exotic disease, parasite, or pest as provided in the Nebraska Apiary Act. Beekeepers affected shall be notified in writing of the quarantine and shall also be notified in writing when the quarantine is released.

81-2,171. Beekeeping; abandoned apiary; seized by department; notice. Any apiary not regularly attended in accordance with good beekeeping practice and which constitutes a disease, parasite, or pest hazard to the beekeeping industry may be considered an abandoned apiary and may be seized by the department. Any diseased bee equipment may be burned and the remainder may be sold at public auction, with

proceeds after the cost of the sale are deducted to be returned to the former owner or his or her estate, except that before burning any such equipment or causing the same to be sold, the department shall give the owner or person in charge thereof a written notice at least ten days prior to the date on which the property will be burned or sold. Such notice shall be given by registered or certified mail or personally served upon the owner or person in charge of such property.

81-2,173. Beekeeping; inspection certificate; procedure.

(1) The department shall issue certificates stating that an apiary is apparently free from infectious or contagious diseases, parasites, or pests after inspecting the apiary when such apiary is apparently free from such diseases, parasites, and pests and upon payment of the certificate fee provided for in section 81-2,174. Such certificate shall also state the date of inspection and shall continue in force for one year unless revoked for cause.

(2) Any person may request an inspection for his or her apiary in order to obtain a certificate.

81-2,174. Beekeeping; inspection certificate; fees; State Apiary Cash Fund; created; use; investment. Upon issuing a certificate to a beekeeper after an inspection as provided in section 81-2,173, the department shall collect a certificate fee as set forth in rules and regulations adopted and promulgated pursuant to the Nebraska Apiary Act not to exceed the following amounts: Two hundred dollars for the inspection of two hundred fifty colonies or less; two hundred fifty dollars for the inspection of two hundred fifty-one through five hundred colonies; three hundred fifty dollars for the inspection of five hundred one through one thousand colonies; and four hundred fifty dollars for the inspection of more than one thousand colonies. The certification fee shall be paid prior to the issuance of certificates by the department. All fees and any gifts, grants, or donations from any source shall be remitted to the State Treasurer for credit to the State Apiary Cash Fund which is hereby created. The fund shall be used to defray the expenses of administering the Nebraska Apiary 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.

81-2,176. Beekeeping; inspection certificate; unlawful use; penalty. If it is found that any certificate issued or approved by the department (1) is being used in connection with bees, queen bees, or used bee equipment (a) which have not been inspected, (b) which are infected with any infectious or contagious disease, parasite, or pest, or (c) which are being sold or delivered without the prescribed treatment being observed or other precautionary measures prescribed by the department taken by the owner or (2) is being used by persons other than the one to whom it was issued without the permission of the department, the department may revoke or withdraw such certificate. The use of such certificate issued by the department after it has been revoked and before such revocation has been withdrawn by the department shall be unlawful and shall subject the holder thereof to the penalty prescribed for a violation of the Nebraska Apiary Act. Revocation or withdrawal of approval shall be through written notice to the holder of the certificate.

81-2,179. Beekeeping; director; enforcement powers; county attorney or Attorney General; duties; violations; penalty.

(1) If the director has reason to believe that any person has violated any of the provisions of the Nebraska Apiary Act or any rules and 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 to be given at least twenty days before the date of such hearing. After such hearing, if the director finds such person to be in violation, the director shall enter an order requiring such person to cease and desist from the specific acts, practices, or omissions. Such order shall be a final order. Any person aggrieved may appeal the order. The appeal shall be in accordance with the Administrative Procedure Act.

(2) The director may apply for a restraining order, a temporary or permanent injunction, or a mandatory injunction against any person violating or threatening to violate the Nebraska Apiary Act, the rules and regulations, or a final order of the director. The district court of the county where the violation is occurring or is about to occur shall have 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.

(3) It shall be the duty of the Attorney General or the county attorney of the county in which any violation occurs or is about to occur when notified by the department of a violation or a threatened violation to institute appropriate proceedings either criminal, injunctive, or both without delay.

(4) Any person violating any of the provisions of the Nebraska Apiary Act shall be guilty of a Class III misdemeanor.

81-2,180. Beekeeping; liability of beekeeper for acts of agent. Every person who by agents or representatives shall cause any act to be done in violation of the Nebraska Apiary Act shall be responsible for the acts performed by such agent or representative.

81-2,181. Honey; Department of Agriculture; adopt standard; label restrictions; violation; remedy or penalty. (1) It is the intent of the Legislature to provide for an identity standard for packaged food products labeled as honey in order to aid consumer information and to protect the integrity of the honey industry in Nebraska.

(2) The Department of Agriculture shall adopt and promulgate rules and regulations that adopt a standard for all honeys produced by honey bees. In promulgating a standard for honey, the department may utilize as a guideline available authoritative references to the composition and grades of honey. Such rules and regulations shall be effective on or before January 1, 2012.

(3) A product shall not be labeled as honey or be labeled as to imply that the product is honey unless the product meets the standard for honey adopted by the Department of Agriculture under subsection (2) of this section.

(4) A violation of subsection (3) of this section shall constitute a deceptive trade practice under the Uniform Deceptive Trade Practices Act and shall be subject to any remedies or penalties available for a violation under the act.

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