

# CALIFORNIA BRAND LAWS

## CALIFORNIA CODES

### FOOD AND AGRICULTURAL CODE (FORMERLY AGRICULTURAL CODE) DIVISION 11. HORSES, MULES, BURROS, SHEEP, AND SWINE CHAPTER 9. EQUINE PROTECTION: ENFORCEMENT

#### § 24101. Short title

This chapter shall be known and may be cited as the Equine Protection Act of 1991.

#### § 24102. Definitions

For purposes of this chapter:

- (a) "Animal" means a horse, pony, mule, or burro.
- (b) "Program" means the program of equine protection and identification of the department.
- (c) "Slaughter" means to kill an animal and prepare it for consumption by animals or human beings.

#### § 24103. Equine protection and identification program

There is in the department a program of equine protection and identification.

#### § 24104. Animal loss or theft complaint; report by sheriff or other officer; content

Each sheriff or other officer to whom a complaint that relates to the loss or theft of any animal is made shall, in a timely manner, transmit to the Bureau of Livestock Identification a report that contains all of the following:

- (a) A complete description of each animal lost or stolen including approximate age, height, and weight, sex, breed, color, natural marks, scars, a description of each brand or tattoo and its location on the animal, and any other information that may be of use in identifying, locating and receiving the lost or stolen animal.
- (b) The county or city where the loss or theft occurred.
- (c) The approximate date and time of the loss or theft.
- (d) The law enforcement agency's report identification or number.
- (e) The name, address, and telephone number of the law enforcement agency that completed the report.
- (f) The name of that law enforcement agency's investigating officer to be contacted relating to the loss or theft.

**§ 24104.5. Animal theft information compilation; report distribution**

The Bureau of Livestock Identification shall compile a report on information received pursuant to Section 24104. The bureau shall distribute the report to all county sheriffs' departments in a timely manner.

**§ 24105. Animal thefts; investigations**

No investigator of the program or any other employee of the department, in enforcing this chapter, shall be required to conduct any investigation that involves the theft of any animal. That investigation shall be conducted by the law enforcement entity that filed the theft report. However, an investigator of the program may assist the law enforcement entity that filed the theft report in the theft investigation.

**§ 24106. Transfer of animals to be slaughtered; contents of bills of sale at time of delivery**

No person shall purchase, consign, sell, or accept the donation of an animal which is destined for slaughter unless the seller or donor of the animal provides, and the purchaser or donee receives, at the time of delivery, a written bill of sale or any written instrument which contains all of the following information:

- (a) A description of each animal which is sold that includes its sex, breed, color, approximate height and weight, approximate age, natural marks, or identifying scars, and of each brand or tattoo and its location. If the animal has been branded or tattooed and registered with the Bureau of Livestock Identification in the department, the identification papers shall accompany the animal.
- (b) The name, address, signature, and motor vehicle driver's license number of the person who sold or donated the animal.
- (c) The date of the transaction.
- (d) The name, address, and motor vehicle driver's license number of the purchaser of the animal.
- (e) The name, address, and motor vehicle driver's license number of any person who transports the animal to the purchaser or an auction yard.

**§ 24107. Auction yard operators or dealers handling animals to be slaughtered; retention of sale and purchase records; disclosure**

Every operator of an auction yard or dealer who handles animals destined for slaughter shall keep a written record of all sales and purchases made in the course of conducting the business for at least two years after making the final entry of any purchase, sale, or donation of an animal. The operator of an auction yard or the dealer shall show the record on demand to any investigator of the program or any peace officer.

**§ 24108. Failure to retain or disclose, or destruction of, required records; violation**

Any person who does not keep the written records required by this chapter or who refuses, upon demand of any investigator of the program or any peace officer, to show the record, to allow copies to be made of the record, or who

destroys the record within two years after making the final entry of any purchase, consignment, sale, or donation of any animal, is guilty of a misdemeanor.

#### **§ 24109. Inspections; requirements**

(a) No animal, whether branded or not, shall be shipped, transported, hauled, or delivered for slaughter, unless it is inspected by an inspector of the program.

(b) As part of the inspection required by this section, the inspector shall be provided a valid bill of sale containing the information designated in Section 24106 for each individual animal.

#### **§ 24110. Seizure of animals by inspectors**

An inspector shall seize any animal for which a valid bill of sale containing the information designated in Section 24106 is not provided.

#### **§ 24111. Removal of animals in possession of an inspector**

Except as otherwise provided in this chapter, it is unlawful for any person to remove from the possession of an inspector any animal seized or which is otherwise in the possession of an inspector.

#### **§ 24112. Branded animals in possession of an inspector; search of brand records**

If the animal which is seized or otherwise in the possession of the inspector is branded, the director shall cause a search to be made of the brand records to ascertain the owner.

#### **§ 24113. Notification of person in whose name brands or marks are recorded**

If the brands or marks are recorded, the director shall immediately, by letter, notify the person in whose name the brands or marks are recorded.

#### **§ 24114. Notice of seizure; posting; publication**

If the owner cannot be ascertained, the director shall cause a notice of the seizure of the animal to remain posted for a period of 14 days on a bulletin board in each office of the Bureau of Livestock Identification. In addition to posting the notice, the director shall periodically publish a list of the descriptions of the animals, containing the information specified in Section 24106, in the classified section of a horse-oriented publication which is in general circulation throughout the State of California. The notices shall also state the time and place of the animal's proposed sale.

#### **§ 24115. Proof of ownership; filing**

Any person that claims ownership of the animal may, at any time, but not later than 14 days after the first posting of

the notice, file his or her proof of ownership with the director and the director shall proceed to determine the claim of ownership.

#### **§ 24116. Return of animal to owner; payment of expenses**

If ownership is proved to the satisfaction of the director, the animal shall be returned to the owner upon payment by the owner of all expenses which were incurred in the handling of the animal.

#### **§ 24117. Disposal of animal; proceeds from salvage**

If the animal at any time while in the possession of an inspector is in a condition which requires immediate disposal, the animal may be disposed of by the director. The proceeds from the salvage, if any, in excess of expenses which were incurred in the handling of the animal shall be paid to the person proving ownership pursuant to Section 24116.

#### **§ 24118. Sale of animals by director; validity of title**

If after 14 days from the date of the first posting of notice, no satisfactory proof of ownership of the animal has been made, or if the owner fails or refuses to pay all expenses which were incurred, the director shall sell the animal. All sales which are made pursuant to this chapter convey a good and valid title to the purchaser.

#### **§ 24119. Proceeds from sale of animals; payment of sale expenses**

The proceeds from the sale of any animal shall be paid into, and the expenses of holding, advertising, sale, and other incidental expenses shall be paid from, the Department of Food and Agriculture Fund.

#### **§ 24120. Proof of ownership subsequent to sale; payment of net proceeds of sale**

If any person shall, within one year after the date of the sale, prove to the satisfaction of the director his or her ownership of an animal which was sold pursuant to this article, the director shall order the net proceeds of the sale of the animal to be paid to that person.

#### **§ 24121. Certificate of inspection**

If the inspector of the program determines that the person who offers the animal for inspection is in lawful possession, the inspector shall issue a certificate of inspection.

#### **§ 24122. Contents; validity**

The certificate of inspection shall be signed by the inspector of the program and shall indicate all of the following:

- (a) The place and date of inspection and the number of animals inspected.

(b) The sex, breed, color, approximate height and weight, approximate age, natural marks and identifying scars, and a description of each brand or tattoo and its location on each animal.

(c) If the animal is to be transported, the names of the shipper and consignee and the point of origin and the final destination of the shipment.

(d) If the animal is to be transported, the length of time necessary to transport the animal between the point of inspection and the point of final destination. The inspector shall determine the amount of time needed for this purpose, based upon the information provided to him or her at the time of inspection.

The certificate issued pursuant to this section shall only be valid for transportation purposes during the period of time specified on the certificate by the inspector.

### **§ 24123. Time of inspection**

It is unlawful for any inspector to issue a certificate of inspection unless he or she personally makes the inspection between sunrise and sunset.

### **§ 24124. Shipment of animals; copy of certificate**

One copy of the certificate of inspection required by this chapter shall accompany the shipment of animals.

### **§ 24125. Transporter of animals to be slaughtered; failure to obtain or exhibit a copy of an inspection certificate; civil penalty**

Any person who transports an animal destined for slaughter who does not have a copy of the certificate of inspection as required pursuant to this chapter or who refuses, upon demand of any investigator of the program or any peace officer, to exhibit a copy of the certificate, is subject to a civil penalty not to exceed fifty dollars (\$50) for each animal.

### **§ 24126. Removal and substitution of animals or addition of animals to a certified shipment lot; violation**

It is unlawful for any person to remove any animal and substitute another for it, or to add any other animal or transport an animal from any lot of animals for which a certificate has been issued, until the shipment or slaughter is completed, unless the inspector who issued the certificate approves these actions in writing. A violation of this section is a misdemeanor.

### **§ 24127. Fees**

(a) Each dealer who handles animals destined for slaughter, and who ships 15 or more animals at a time for slaughter, shall pay the inspector a service fee of twenty-five dollars (\$25), in addition to a fee of up to ten dollars (\$10) for each animal, as determined by the director. The inspection shall take place within 24 hours of the date of transportation.

(b) Each dealer who handles animals destined for slaughter, and who ships less than 15 animals at a time for slaughter, shall pay the inspector for the actual cost of the inspection, as determined by the director. The inspection shall take place immediately prior to when the animal to be shipped is loaded onto the conveyance.

(c) The fees shall be paid at the point of inspection of the animals. The revenue derived from these fees shall be deposited in the Department of Food and Agriculture Fund and, upon appropriation by the Legislature, shall be expended to carry out this chapter. The department shall maintain all internal accounting measures necessary to ensure that revenue derived pursuant to this chapter shall be kept separate from all other funds in the Department of Food and Agriculture Fund. The Governor's budget submitted to the Legislature pursuant to Section 12 of Article IV of the California Constitution shall display the fiscal information for this program in accordance with Sections 13335, 13336, and 13337 of the Government Code.

#### **§ 24128. Memorandum of inspection**

(a) The inspector shall make a memorandum which shows the number, sex, breed, color, approximate height and weight, approximate age, natural marks and identifying scars, and a description of each brand or tattoo and its location on each animal which is inspected, and the names of the owner or claimant, consignor, or consignee.

(b) The memorandum of the inspection shall be retained for record purposes by the inspector for at least two years after the date of the inspection.

#### **§ 24129. Maintenance of inspection certificates**

The department shall maintain inspection certificates for a period of five years in a manner that shall disclose the number of animals that have been inspected.

#### **§ 24130. Consignment purchasers or sellers; certificates of consignment; contents**

Any person that is engaged in the business of buying or selling animals on consignment at any public or private salesyard shall keep after each sale, a certificate of consignment which contains all of the following information:

(a) The name and address of the consignor.

(b) A description of each animal which is sold that includes its sex, breed, color, approximate height and weight, approximate age, natural marks and identifying scars, and a description of each brand or tattoo and its location on each animal.

(c) Reasonable proof of the ownership of the animal.

(d) The license number of any vehicle which transports the animal to the salesyard. If the animal is transported in a trailer, the license number of both the trailer and the vehicle which pulls it shall be given.

(e) The signature of the consignor.

#### **§ 24131. Retention of consignment certificates; disclosure**

Any person subject to Section 24130 shall retain the certificate of consignment on file for a period of at least two years after the sale. The certificates of consignment shall be presented on demand of any peace officer or any agent of the program.

**§ 24132. Civil liability; damages**

(a) Notwithstanding any other provision of law, a person is civilly liable for four times the value of the animal at the time of taking, possessing, harboring, transporting, or slaughtering of the animal, with interest, at the prime rate from the date of that occurrence, for attorney fees incurred in the recovery of the animal, and for an amount in fair compensation for the time and money properly expended by the owner in pursuit of the animal, as follows:

(1) In any action for the wrongful taking, possessing, harboring, or transporting of an animal for slaughter or for the slaughter of the animal without the consent of the owner or the person lawfully in possession of the animal or any animal whose ownership is still in dispute.

(2) In any action where a person knowingly, by any false representation or pretense, defrauds another person of any animal, which results in the wrongful taking, possessing, harboring, or transporting of the animal for slaughter without the consent of the owner or the person lawfully in possession of the animal or any animal whose ownership is still in dispute.

(b) The commencement of any criminal prosecution for the theft of the animal shall not preclude or prevent any civil action as specified in this section.

**§ 24133. Transportation of animals out of state to avoid inspection; violation; penalty**

Any person who transports an animal destined for slaughter out of the state under false pretenses in order to avoid an inspection under this chapter is guilty of a misdemeanor and subject to a fine of five hundred dollars (\$500) for each animal so transported.

**§ 24134. Falsification of documents or records; penalties**

Any person who falsifies any document or record required by this chapter, or by any regulation adopted pursuant to this chapter, is liable civilly for a penalty in an amount not to exceed five hundred dollars (\$500) for each violation. Any money that is recovered pursuant to this section shall be paid into the Department of Food and Agriculture Fund and, upon appropriation by the Legislature, shall be expended to carry out this chapter.

## CALIFORNIA CODE OF REGULATIONS

### Title 3. Food And Agriculture

#### Division 2. Animal Industry

#### Chapter 3. Livestock Identification

#### Article 4. Branding and Inspection

**§ 895.2. Horse Record Branding Positions.**

A "super-cold iron" brand, as defined in Section 23251.1 of the Food and Agricultural Code may be applied as a record brand only on the neck of horses. Such a brand may also be used on the other positions which are authorized for cattle brands.

**Reviewed by AAHS in July 2001.**

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