

COLORADO BRAND LAWS

COLORADO REVISED STATUTES

TITLE 35. AGRICULTURE

III--LIVESTOCK

ARTICLE 43. BRANDING AND HERDING

§ 35-43-101. Brands on livestock--evidence

It is lawful to mark cattle and horses with the owner's brand. When animals are brought into this state from another state or a territory in transit from beyond the boundaries of this state, the brand, or a copy thereof, duly certified to by the proper officer in each state or territory, shall be received in evidence, with like force and effect as a brand duly recorded in this state.

§ 35-43-102. Branding--evidence of ownership--penalty

Animals which are usually branded may be branded on either side with the owner's brand. No evidence of ownership by brands shall be permitted in any court in this state unless the brands are recorded as provided in section 35- 43-105. Each drove of cattle or sheep which may be driven into or through any county of this state shall be plainly branded or marked with one uniform brand or mark. The cattle shall be so branded with the distinguishing ranch or road brand of the owner as to show distinctly in such places as the owner may adopt. Sheep shall be marked distinctly with such mark or device as may be sufficient to distinguish the same readily, should they become intermixed with other flocks of sheep owned in the state. Any such owner or person in charge of such drove being driven into or through the state who fails to comply with the provisions of this article shall be fined not less than fifty dollars nor more than three hundred dollars.

§ 35-43-103. Earmarks

Any stock grower of this state may adopt and use an earmark. Such earmark shall be taken in evidence, in connection with the owner's recorded brand, in all suits at law or in equity in which the title to stock is involved. The earmark shall be made by cutting and shaping the ear of the animal so marked; but in no case shall the person so marking an animal cut off more than one-half of the ear so marked; neither shall anyone mark by cutting an ear on both sides to a point.

§ 35-43-104. Brand distinctions--recording office

No brand shall be used by more than one person, association, or corporation, nor shall any brand be recorded in this state elsewhere than in the office of the state board of stock inspection commissioners, except as provided in section 35-43-107.

§ 35-43-105. Fee to record brands--unlawful use--penalty

(1) Any person, association, or corporation desiring to adopt any brand, not then being the recorded brand of another person, association, or corporation, shall forward to the state board of stock inspection commissioners a facsimile of the desired brand, together with a written application to adopt such brand, and shall accompany the same with a fee of twenty-five dollars. Upon receipt of such facsimile and fee, the state board of stock inspection commissioners shall record the same, unless such brand stands of record as that of some other person, association, or corporation or is in conflict with the same, in which case the state board of stock inspection commissioners shall not record the same but shall return such facsimile and fee to the party sending the same.

(2) It is unlawful for any person, association, or corporation to brand or cause to be branded any livestock with a brand which has not been recorded with the state board of stock inspection commissioners, as provided in subsection (1) of this section, or with a brand which has been previously recorded by another person, association, or corporation. When any owner of a recorded brand in use in this state moves his cattle, branded with his own brand, to a new and different range or locality in this state within which territory there is in use a conflicting or similar recorded brand, the state board of stock inspection commissioners may order such recorded brand owner so moving to a new range or locality to discontinue the use of his recorded brand in that locality; and the board, at its discretion, may cancel such brand ordered to be so discontinued.

(3) Any person, association, or corporation or any employee thereof who violates any of the provisions of subsection (2) of this section is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than fifty dollars nor more than five hundred dollars, or by imprisonment in the county jail for not less than thirty days nor more than one year, or by both such fine and imprisonment.

§ 35-43-106. Certified copy of brand--fee

Upon the recording of any brand, the owner thereof shall be entitled to one certified copy of the record of such brand from the state board of stock inspection commissioners, the certificate to be signed by the brand commissioner or the secretary of the board. Additional certified copies of said record may be obtained by anyone upon the payment of one dollar for each copy.

§ 35-43-107. Recording by county clerk and recorder

It is unlawful for the county clerk and recorder of any county in this state to record any brand, unless previously recorded in the office of the state board of stock inspection commissioners.

§ 35-43-108. Brand book

It is the duty of the state board of stock inspection commissioners, from time to time as it may be necessary, to cause to be published in book form a list of all brands on record at the time of such publication. The board, at its discretion, may cause to be issued a supplement to the brand book issued, containing the additional brands or changes in ownership of brands between the time of the last publication and the time of issuing such supplement, for the use of the department and its employees. Such brand book and supplements thereto shall contain a facsimile of every brand recorded, together with the owner's name and post-office address. Said records shall be arranged in convenient form for reference. Said books and supplements may be sold to the general public at approximate cost. The brand book and other publications circulated in quantity outside the executive branch shall be issued in accordance with the provisions of section 24-1-136, C.R.S.

§ 35-43-109. Brands personal property--recording by board--effect

Any brand recorded shall be the property of the person, association, or corporation causing such record to be made and shall be subject to sale, assignment, transfer, devise, and descent as personal property. Instruments of writing evidencing the sale of such brand, assignment, or transfer shall be recorded by the state board of stock inspection commissioners, and the fee for recording such sale, assignment, or transfer shall be twenty-five dollars. The recording of such instruments of writing shall have the same force and effect as to third parties as the recording of instruments affecting real estate, and a certified copy of the record of any such instrument may be introduced in evidence the same as is provided for the certified copies of instruments affecting real estate.

§ 35-43-110. Proof of ownership--evidence

In all suits at law or in equity or in any criminal proceeding when the title to animals is involved or proper to be proved, the certified copy provided for in section 35-43-106 shall be prima facie evidence of the ownership of such animal by the person whose brand it may be. Proof of the right of any person, association, or corporation to use such brand shall be made by a copy of the record of same, certified to by the state board of stock inspection commissioners by its secretary or the brand commissioner.

§ 35-43-111. Earmarking sheep and hogs

Any owner of sheep or hogs may use an earmark, tag, or brand to designate ownership of and title to the same, which shall be subject to the provisions of this article in respect to brands.

§ 35-43-112. Other animals--earmarks

Owners of animals other than sheep or hogs in this state may use earmarks, and these earmarks shall be taken in evidence in connection with the owner's recorded brand in all suits at law or in equity or in any criminal proceedings when the title to such property is involved or proper to be proved.

§ 35-43-113. Publication of brands and transfers

Upon the first of every month or as soon thereafter as possible, the state board of stock inspection commissioners shall cause to be exhibited in the office of the county clerk and recorder in all counties in the state and post, when permissible, in Colorado licensed livestock markets a list showing all the brands and transfers recorded for the previous calendar month. Said list shall show a facsimile of the brand, the name of the owner, and the owner's post-office address, county, and state. The list shall remain posted until the following month when the new list is posted. Complete brand records shall be kept on file for inspection by the public at the office of each county clerk and recorder, and also kept on file by all local brand inspectors. The list shall also be published in the official state livestock paper or publication required under section 35-44-109.

§ 35-43-114. Fees--disposition--report

All fees and money collected by the state board of stock inspection commissioners shall be deposited in the brand inspection fund unless otherwise provided by law. The board shall prepare and transmit annually, in the form and manner prescribed by the heads of the principal departments pursuant to the provisions of section 24-1-136, C.R.S., a

report accounting to the governor for the efficient discharge of all responsibilities assigned by law or directive to the board.

§ 35-43-115. Assessment of brands

(1) To revise and disencumber the brand records of unused brands and to provide funds with which to publish new brand books and otherwise assist in the operational cost of the division of brand inspection, the state board of stock inspection commissioners has the authority to impose an assessment, not to exceed thirty dollars per year or any fraction of a year and not to exceed one hundred fifty dollars in any one assessment period, on every brand recorded in the office of the state board of stock inspection commissioners on or before January 1, 2002, to cover the five-year period beginning on January 1, 2002, and ending on December 31, 2006, and like assessments covering every five years thereafter. It is the duty of the board to notify every owner of a recorded brand of such assessment through the United States mail by letter addressed to the owner at the owner's post-office address as given in the brand records. The assessment shall be due and payable within ninety days after January 1 of the assessment year. If any owner of a recorded brand fails or refuses to pay such assessment within said ninety days, the board may mail a second notice by certified mail. If, within ninety days after the second mailing, any owner of a recorded brand fails or refuses to pay such assessment, such brand shall be cancelled from the valid registry of livestock brands in the office of the state board of stock inspection commissioners and may be reissued and recorded as a new brand after the expiration of three years from the date of such cancellation. The state board of stock inspection commissioners shall give a receipt for any such payment.

(2) Repealed by Laws 1989, H.B.1176, § 2, eff. Dec. 31, 1991.

(3) As to any brand recorded prior to the beginning of any assessment period, the state board of stock inspection commissioners shall require one payment of all assessments for the entire five-year period. As to any brand recorded on or after the commencement of any assessment period, the state board of stock inspection commissioners shall make the assessment for the year or fractional part of the year in which the brand is recorded and for the remaining years within that five-year period and shall require one payment of all such assessments.

(4) All moneys collected by the state board of stock inspection commissioners from brand assessments shall be credited to a separate account within the brand inspection fund to be known as the brand assessment account. All moneys credited to such account and all interest earned on investments from moneys credited to such account shall be a part of the brand assessment account and shall be available for appropriation by the general assembly for purposes provided by law.

§ 35-43-115.5. Abandoned brands--procedure--sale--proceeds

(1) Any brand that has been cancelled for nonpayment of the assessment pursuant to section 35-43-115(1) and that, as of June 30 of any assessment year, has remained unclaimed for at least five years since the date of cancellation shall be presumed abandoned, and all claims or interests in such brand shall be deemed forfeited.

(2) In accordance with the "State Administrative Procedure Act", article 4 of title 24, C.R.S., the state board of stock inspection commissioners shall adopt rules governing the publication and sale of abandoned brands. Such rules shall include, without limitation, provisions for the publication of a notice of abandoned brands and procedures for the public sale of such brands.

(3) The purchaser of an abandoned brand at a public sale shall take all rights to the brand free and clear of all liens and encumbrances of the prior owner or of any other person. The state board of stock inspection commissioners shall provide all documents necessary to effectuate the transfer of ownership of the brand.

(4) The proceeds of the sale of an abandoned brand, net of expenses of the sale, shall be credited to the brand assessment account in the brand inspection fund.

§ 35-43-116. Wrongful branding--penalty

If any person, association, or corporation willfully and knowingly brands, or causes to be branded, an animal which is the property of another with his or her brand or any brand which is not the recorded brand of the owner or willfully and knowingly effaces, defaces, or obliterates any brand or mark upon such an animal, such person or any officer or director of any such association or corporation commits a class 6 felony and shall be punished as provided in section 18-1.3-401, C.R.S.

§ 35-43-117. Use of false brand--damages

Any person who brands or marks, or causes to be branded or marked, any animal which is the property of another with his brand or any brand which is not the recorded brand of the owner or effaces, defaces, or obliterates any brand or mark upon any animal is guilty of theft and, upon conviction thereof, shall be liable to the owner thereof for three times the value of the animal so branded or marked or upon which the brand or mark has been effaced, defaced, or obliterated. Payment of the forfeiture provided in this section shall not entitle the person so branding, effacing, defacing, or obliterating a brand to the property right in the animal so branded or upon which the brand was effaced, defaced, or obliterated, but such animal shall be surrendered to the proper owner.

§ 35-43-118. Maverick defined--branding penalty

(1) All neat cattle and horses found running at large in this state without a mother and upon which there is neither mark nor brand shall be deemed a maverick and shall be sold to the highest bidder for cash at such time and place and under such rules and orders as the state board of stock inspection commissioners prescribes. Nothing in this section shall be construed to apply to domestic or blooded stock owned and kept in cities or towns or on private farms that may stray upon the open range, and all such animals that are claimed, identified, and proven may be reclaimed.

(2) Any person who marks, brands, or causes to be marked or branded, or in any way converts to his use any animal known and designated by law as a maverick, if not by law authorized to do so, or who knowingly allows such marking, branding, or conversion, as is prohibited by this section, to be done by his employee or agent in his behalf is guilty of a misdemeanor and, upon conviction thereof, shall be punished by imprisonment in the county jail for not less than three months nor more than one year.

§ 35-43-119. Stock mixed with drove--penalty

When the stock of any resident intermixes with any drove of animals, it is the duty of any drovers or persons in charge to cut out and separate such stock from said drove immediately, except in case of sheep and horses, which shall be driven to the nearest suitable corral to be separated. Any person, either owner or drover, or otherwise connected with the management of such drove, who neglects to comply with the provisions of this section, shall be fined not more than five hundred dollars for every offense, and shall be liable to indictment for theft.

§ 35-43-120. Trespassing on lands--injuring resident--penalty

(1) It is the duty of any person owning or having charge of any drove of cattle, horses, or sheep, who when driving the same into or through any county of Colorado of which the owner is not a resident or landowner and where the land in such county is occupied and improved by settlers and ranchers, to prevent the same from mixing with the cattle, horses, or sheep belonging to the actual settlers and also to prevent said drove of cattle, horses, or sheep from trespassing on such land as may be the property or in the possession of the actual settler and used by him for the grazing of animals or the growing of hay or other crops or from doing injury to ditches.

(2) Any owner or person in charge of any such drove of stock who willfully injures any resident of the state by driving such drove of stock from the public highway and herding the same is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than twenty-five dollars nor more than one hundred dollars. The owner or person in charge of the drove so trespassing shall be liable for the damages done to the settler.

§ 35-43-128. Theft of certain animals--penalty

Any person who commits theft of, or knowingly kills, sells, drives, leads, transports, or rides away, or in any manner deprives the owner of the immediate possession of any cattle, horses, mules, sheep, goats, swine, or asses, either live or slaughtered, or any portion of the slaughtered carcass thereof, or any person who commits theft of, or knowingly kills, sells, drives, leads, transports, or rides away, or in any manner applies to the person's own use any cattle, horses, mules, goats, sheep, asses, or swine, either live or slaughtered, or any portion of the slaughtered carcass thereof, the owner of which is unknown, or any person who knowingly purchases from anyone not having the lawful right to sell and dispose of the same any cattle, horses, mules, sheep, goats, swine, or asses, either live or slaughtered, or any portion of the slaughtered carcass thereof, commits a class 4 felony and shall be punished as provided in section 18-1.3-401, C.R.S.

Amended in 1998, 2002.

Reviewed by AAHS in July 2001.

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