

# ILLINOIS BRAND LAWS

## ILLINOIS COMPILED STATUTES

### CHAPTER 510. ANIMALS ACT 40. ILLINOIS BRAND ACT

#### **40/1. Short title**

§ 1. This Act shall be known and may be cited as the "Illinois Brand Act".

#### **40/2. Definitions**

§ 2. As used in this Act, unless the context otherwise requires, the terms specified in Section 2.01 through 2.05 have the meanings ascribed to them in those Sections.

##### **40/2.01. Department**

§ 2.01. "Department" means the Department of Agriculture of the State of Illinois.

##### **40/2.02. Director**

§ 2.02. "Director" means the Director of the Department of Agriculture, or his duly appointed representative.

##### **40/2.03. Person**

§ 2.03. "Person" means any individual, firm, association, partnership, corporation, or other legal entity, any public or private institution, the State of Illinois, or any municipal corporation or political subdivision of the State.

##### **40/2.04. Livestock**

§ 2.04. "Livestock" means bison, cattle, swine, sheep, goats, or equidae.

##### **40/2.05. Brand**

§ 2.05. "Brand" means an identification mark burned into the hide of a live animal by a hot iron or another method approved by the Department. Each character in a brand shall, at the time of application, be not less than 3 inches in diameter and each shall be a distinct character. Brands of lesser dimensions may be approved by the Department for

goats, sheep, and swine. Arabic numerals alone are not acceptable characters for such ownership brands.

Such brands shall be applied to the shoulder, ribs, or hip on either the right or left side as determined by standing behind the animal. No brand, except those for livestock disease control purposes, may be applied to the head or neck area.

#### **40/3. Adoption of brand for exclusive use**

§ 3. Any person having livestock in this State shall have the right to adopt a brand for his exclusive use in this State; provided, such brand is recorded as required under this Act.

#### **40/4. Re-recording of brands--Fee--Similar brands--Date**

§ 4. By November 1, 1975, each County Clerk shall forward to the Department legible copies of brands registered in his county under the provisions of "An Act in regard to marks and brands". Thereafter, the Department shall publish notice of the provisions of this Act and shall notify each person entered in these records as having a brand recorded that re-recording is required. Each such person shall forward to the Department a facsimile brand, a recording fee of \$15, and completed application on forms prescribed by the Department. If 2 or more facsimile brands are submitted which so closely resemble each other that they cannot be readily distinguished, the one first recorded in one of the brand books furnished by County Clerks shall be accepted and all others shall be returned as provided in this Act. If such brands have not been previously recorded in a brand book, the Department shall accept the one bearing the earliest postmark. All other brands shall be returned to the applicants together with explanation.

The date a brand is re-recorded with the Department shall be the official date utilized in determining renewal date of a brand as required in Section 7 of this Act.

All brands which are not re-recorded with the Department by January 1, 1976, shall be cancelled immediately.

#### **40/5. Applications for adoption of brand--Recording fee--Official brand book--Certificates--Similar brands**

§ 5. Beginning January 1, 1976, any person desiring to adopt a brand shall forward to the Department a facsimile brand, a recording fee of \$15, and completed application on forms prescribed by the Department. If the brand is accepted, the Department shall file the brand in its official brand book, shall furnish the applicant a brand certificate, and shall inform the applicant that he has exclusive right to the use of such brand in the State of Illinois from the date of filing by the Department. Additional brand certificates of a recorded brand may be obtained from the Department upon payment of a \$15 fee for each certificate.

If the Department determines that the submitted brand is already on record for another person or that it so closely resembles the brand of another person that they cannot be readily distinguished, the Department shall notify the applicant and shall return the facsimile brand and recording fee.

#### **40/6. Recorded brand considered as personal property--Sale or transfer-- Recording of transfer--Fee**

§ 6. Any recorded brand shall be considered the personal property of the person in whose name it is filed and shall be subject to sale, assignment, transfer, legacy, and descent as personal property. Instruments of writing evidencing the sale, assignment, or transfer of a brand shall be forwarded to the Department to be recorded in the official brand book. The fee for such transaction shall be \$15. As soon as such transaction has been recorded, the Department shall furnish

the new owner one certified copy of the sale, assignment, or transfer of the brand. Additional brand certificates denoting such transaction may be obtained from the Department upon payment of a \$15 fee for each certificate.

#### **40/7. Renewal fee--Determination of renewal date--Forfeited brands-- Reinstatement**

§ 7. By January 1 of each fifth year following original recording with the Department, each owner of a brand of record shall submit to the Department a renewal fee of \$15. For the purpose of determining renewal date, the period between the date a brand is recorded with the Department and January 1 of the next year shall constitute the first year of the 5-year period. If the owner of a brand of record fails, refuses, or neglects to pay such fee by June 30 of the year in which it is due, the brand shall be forfeited and no longer carried in the record. A forfeited brand shall not be issued to another person for a period of 5 years following the date of forfeiture. During this 5-year period, the owner of record may make application to the Department for restitution of a forfeited brand. Such application shall be accompanied by a facsimile brand and a reinstatement fee of \$25. The renewal date for a reinstated brand shall remain the same and renewal fees on such brands shall be due on January 1 of each fifth year following original recording.

#### **40/8. Use of unrecorded brand--Branding previously branded livestock--In- herd brands**

§ 8. Except as otherwise provided in this Act, it shall be unlawful to use any brand for identifying any livestock, unless such brand has been recorded as provided in this Act. When a recorded brand is applied to livestock which have been branded by a previous owner, such brand shall be applied so as not to overlap, disfigure, or mutilate the existing brand or brands.

Brands consisting of letters only, arabic numerals only, or a combination of both, may be used for "in-herd" identification; provided, they are located at least 10 inches away from any recorded brand. Such "in-herd" brands are not to be recorded and shall not be considered evidence of ownership.

#### **40/9. Brand certificate as prima facie evidence of ownership--Effective January 1, 1985**

§ 9. In any civil or criminal proceedings in which the title to animals is an issue, the brand certificate as provided for in this Act shall be prima facie evidence of the ownership of the animal by the person in whose name the brand is recorded. When requested to do so, disputes in custody or ownership of branded animals shall be investigated by State or county law enforcement officials or representatives of the Department. This Section 9 shall take effect on January 1, 1985.

#### **40/10. Publication of recorded brands**

§ 10. The Department shall publish all recorded brands in book form and shall publish supplemental lists at least once each year. This book and all supplements shall contain a facsimile of all brands recorded, the owner's name, and legal mailing address. The Department shall, without charge, furnish one copy of the brand book and supplements to the County Clerk and Sheriff of each county. The general public may obtain copies by remitting to the Department the cost of printing and mailing each book and accompanying supplements.

#### **40/11. Placement of fees in the General Revenue Fund**

§ 11. The Department shall place all fees collected, under the provisions of this Act, in the General Revenue Fund.

#### **40/12. Records of slaughtering establishment or livestock market receiving branded livestock**

§ 12. Any slaughtering establishment or livestock market receiving branded livestock shall keep such records as required by the Department. These records shall be kept for a period of at least one year.

#### **40/13. Reported livestock thefts--Alerting livestock markets and slaughtering establishments**

§ 13. The Department, in cooperation with law enforcement officials in this and other states, shall develop a uniform procedure whereby law enforcement officials shall alert livestock markets and livestock slaughtering establishments of reported livestock thefts.

#### **40/14. Enforcement of Act--Rules and regulations**

§ 14. The Department shall enforce this Act and may make and adopt reasonable and necessary rules and regulations to carry out the provisions of this Act. No rule or regulation made, adopted, or issued by the Department pursuant to the provisions of this Act shall be effective unless such rule or regulation has been submitted to and approved by the Advisory Board of Livestock Commissioners.

#### **40/15. Entry upon premises to enforce Act**

§ 15. Any authorized representative of the Department or any law enforcement officer may, for the purpose of enforcing this Act, enter during usual working hours any premise, building, or other place where livestock may be present; provided, sanitized footwear furnished by the responsible agency is used as well as any other reasonable disease prevention procedures or equipment as may be furnished by the owner or operator of the premise. These sanitation precautions apply only to an individual farm operation or management facility.

#### **40/16. Violations**

§ 16. Any person who, without permission of the rightful owner, willfully and knowingly brands or causes to be branded with his brand, or any brand not the recorded brand of the owner, any livestock being the property of another, or who shall willfully or knowingly efface, deface, or obliterate any brand upon any livestock, is guilty of a Class 3 felony.

Any person knowingly or intentionally violating any other provision of this Act is guilty of a Class C misdemeanor.

#### **40/17. Partial invalidity**

§ 17. If any provision of this Act is declared unconstitutional, or the applicability thereof to any person or circumstance is held invalid, by a court of competent jurisdiction, the constitutionality of the remainder of the Act and the applicability thereof to other persons and circumstances shall not be affected thereby.

**Reviewed by AAHS in July 2001.**

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