

CHAPTER 534

LIVESTOCK; MARKS AND BRANDS; STAMPING BEEF

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534.011 Inspection and protection of livestock; jurisdiction of Department of Agriculture and Consumer Services.—The inspection and protection of livestock in the state are hereby placed under the jurisdiction of the Department of Agriculture and Consumer Services, herein called the "department."

History.—s. 1, ch. 65-357; ss. 14, 35, ch. 69-106.

534.021 Recording of marks or brands.—The department shall be the recorder of livestock marks or brands, and the marks or brands may not be recorded elsewhere in the state. Any livestock owner who uses a mark or brand to identify his livestock must register the mark or brand by applying to the department. The application must be made on a form prescribed by the department and must be accompanied by a facsimile of the brand applied for and a statement identifying the county in which the applicant has or expects to have livestock bearing the mark or brand to be recorded. The department shall, upon its satisfaction that the application meets the requirements of this chapter, record the mark or brand for exclusive statewide use by the applicant. If an application is made to record a mark or brand previously recorded, the department shall determine whether the county in which the mark or brand will be used is near enough to another county in which the previously recorded mark or brand is used to cause confusion or to aid theft or dishonesty, and if so, the department must decline to admit to record the mark or brand.

If a conflict arises between the owner of any recorded mark or brand and another claiming the right to record the same mark or brand, the department must give preference to the present owner. The department shall charge and collect at the time of recording a fee of \$10 for each mark or brand. A person may not use any mark or brand to which another has a prior right of record. It is unlawful to brand any animal with a brand not registered with the department.

History.—s. 1, ch. 65-357; s. 1, ch. 69-333; ss. 14, 35, ch. 69-106; s. 1, ch. 75-37; s. 1, ch. 95-220.

534.031 Certified copies of marks and brands.—Certified copies of recorded marks and brands shall be furnished by the department when and as requested and it shall charge and collect \$2 for each certificate. Such certificates shall be admissible in evidence in all courts.

History.—s. 1, ch. 65-357; ss. 14, 35, ch. 69-106; s. 1, ch. 75-37.

534.041 Renewal of certificate of mark or brand.—The registration of a mark or brand entitles the registered owner to exclusive ownership and use of the mark or brand for a period ending at midnight on the last day of the month 5 years from the date of registration. Registration may be renewed, upon application and payment of a renewal fee of \$5, for successive 5-year periods, each ending at midnight on the last day of the month 5 years from the date of renewal. At least 60 days prior to the expiration of a registration, the department shall notify by letter the registered owner of the mark or brand that, upon application for renewal and payment of the renewal fee, the department will issue a renewal certificate granting the registered owner exclusive ownership and use of the mark or brand for another 5-year period ending at midnight on the last day of the month 5 years from the date of renewal. Failure to make application for renewal within the month of expiration of a registration will cause the department to send a second notice to the registered owner by mail at his last known address. Failure of the registered owner to make application for renewal within 30 days after receipt of the second notice will cause the owner's mark or brand to be placed on an inactive list for a period of 12 months, after which it will be canceled and become subject to registration by another person.

History.—s. 1, ch. 65-357; ss. 14, 35, ch. 69-106; s. 1, ch. 70-152; s. 1, ch. 70-439; s. 1, ch. 75-37; s. 2, ch. 95-220.

534.051 Transfer of ownership of mark or brand.—Marks or brands recorded under this act are the property of the person, firm or corporation causing the record to be made, and may be sold, assigned or donated as personal property. Any instrument affecting the title of such mark or brand shall be acknowledged in the presence of the recorded owner and a notary public, and shall be recorded by the department. The fee for recording a transfer of ownership shall be \$10.

History.—s. 1, ch. 65-357; ss. 14, 35, ch. 69-106; s. 1, ch. 75-37.

534.061 Transfer of ownership of cattle.—It shall be the duty of all purchasers of cattle, except for imme-

diate slaughter, to remark or rebrand the same within 10 days, or have on request a bill of sale from the rightful owner of marks and brands on cattle, provided that this requirement shall not apply where an entire stock of cattle with the mark and brand or marks and brands carried by them shall be sold and conveyed.

History.—s. 1, ch. 65-357.

534.071 Rules and regulations.—The department shall prescribe and enforce suitable rules and regulations for the inspection of livestock and carcasses of livestock to the end that the true ownership thereof may at all times be protected and larceny prevented and for the enforcement of this chapter. The department is hereby authorized to employ all necessary inspectors and to use any other designated persons to enforce and administer the provisions of this chapter.

History.—s. 1, ch. 65-357; ss. 14, 35, ch. 69-106.

534.081 Duties of law enforcement officers; appointment of special officers.—

(1) All law enforcement officers of the state or any political subdivision thereof, including investigators and agricultural law enforcement officers of the department and highway patrolmen, are authorized to stop any driver of a vehicle transporting livestock, carcasses of livestock, inedible raw products of livestock, used grease, used restaurant grease, or other such products and to require such driver to present for inspection the evidence of ownership, or authority for possession, of such livestock, carcasses of livestock, inedible raw products of livestock, used grease, used restaurant grease, or other such products.

(2) All law enforcement officers of the state or any political subdivision thereof, including investigators of the department, shall have the authority to visit all markets, slaughtering establishments, and places where slaughtered animals are offered for sale at reasonable intervals and to keep such markets under close observation.

History.—s. 1, ch. 65-357; s. 2, ch. 69-333; ss. 14, 35, ch. 69-106; s. 1, ch. 70-235; s. 1, ch. 70-439; s. 1, ch. 79-323; s. 1, ch. 80-185; s. 403, ch. 81-259; s. 1, ch. 83-178; s. 31, ch. 84-258; s. 1, ch. 86-59; s. 8, ch. 92-290; s. 103, ch. 92-291; s. 3, ch. 93-270.

534.082 Duties of livestock hide dealers.—Livestock hide dealers shall make and keep a record of all hides of livestock received by them, which record shall include the name and address of the person from whom the hides were purchased, a description of the hides, brands, and any other identifying information. Such record shall be maintained for public or official inspection for a period of 2 years.

History.—s. 3, ch. 69-333.

534.083 Livestock hauler's permit; display of permit on vehicle; bill of lading.—

(1) No person shall engage in the business of transporting or hauling for hire livestock on any street or highway, as defined in s. 316.003(53), without first having applied for and obtained from the department a permit which shall expire on December 31 of each year. The information supplied by the applicant on the application for permit shall be certified under oath. Cost of the permit shall be \$5 for each year or fraction thereof.

(2) The department shall issue a metal tag or plate to every person or company required to obtain a permit to transport or haul for hire livestock, which shall bear the serial number of the permit. Such a tag or plate shall be issued for each vehicle used by the hauler.

(3) The metal tag or plate required under this section shall be attached to each vehicle used for transporting or hauling livestock in a conspicuous place in an upright position on the rear of the vehicle. When livestock is transported in a trailer type vehicle propelled or drawn by a motor truck or tractor, each such trailer shall have the tag or plate attached to the rear of the trailer in a conspicuous place in an upright position, and it shall not be necessary to have a tag attached to the motor truck or tractor.

(4) Persons engaged in the business of transporting or hauling livestock in the state shall, upon receiving such livestock for transportation, issue a waybill or bill of lading for all livestock transported or hauled by them, and such waybill or bill of lading shall accompany the shipment of livestock, with a copy thereof being furnished to the person delivering livestock to the hauler. The waybill or bill of lading shall show the place of origin and destination of the shipment, the name of the owner of the livestock, date and time of loading, name of person or company hauling the livestock, and the number of animals and a general description thereof. The waybill or bill of lading shall be signed by the person delivering the livestock to the hauler certifying that the information contained thereon is correct.

History.—s. 3, ch. 69-333; ss. 14, 35, ch. 69-106; s. 1, ch. 86-70; s. 2, ch. 86-230; s. 40, ch. 91-220.

534.091 Claim of ownership without title.—It shall be unlawful for any person, firm or corporation to have the possession of livestock or carcasses of livestock under claim of ownership when in fact said person, firm, or corporation does not own said livestock or carcasses of livestock.

History.—s. 1, ch. 65-357.

534.101 Penalties.—Any person who shall violate the provisions of ss. 534.011-534.091, either by doing anything forbidden, or failing to do and perform anything required hereby, shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

History.—s. 1, ch. 65-357; s. 523, ch. 71-136.

534.111 Injunction.—In addition to the remedies provided in this chapter, and notwithstanding the existence of any adequate remedy at law, the department is hereby authorized to make application for injunction to a circuit court or circuit judge and such circuit court or circuit judge shall have jurisdiction upon hearing and for cause shown to grant a temporary or permanent injunction, or both, restraining any person from violating or continuing to violate any of the provisions of this chapter, or for failing or refusing to comply with the requirements of this chapter, or any rule or regulation duly promulgated as in this chapter authorized, such injunction to be issued without bond.

History.—s. 1, ch. 65-357; ss. 14, 35, ch. 69-106.

534.47 Definitions.—As used in ss. 534.48–534.53:

(1) "Department" means the Department of Agriculture and Consumer Services.

(2) "Livestock market" means any location in the state where livestock is assembled and sold at public auction or on a commission basis during regularly scheduled or special sales. The term "livestock market" shall not include private farms or ranches or sales made at livestock shows, fairs, exhibitions, or special breed association sales.

(3) "Buyer" means the party to whom title of livestock passes or who is responsible for the purchase price of livestock, including, but not limited to, producers, dealers, meat packers, or order buyers.

History.—s. 1, ch. 73-40; s. 2, ch. 81-318; ss. 2, 3, ch. 83-7; s. 1, ch. 93-5.

534.48 License and fee.—Prior to engaging in business, every livestock market shall make application to the department for a license. Such application shall be on a form provided by the department and shall be accompanied by an annual license fee of \$100. Upon approval of the application by the department, a license shall be issued and shall remain in effect for 1 year from the date of issuance unless terminated by the department. All funds received as license fees shall be placed in the General Inspection Trust Fund.

History.—s. 2, ch. 73-40; s. 2, ch. 81-318; ss. 2, 3, ch. 83-7; s. 1, ch. 93-5.

534.49 Livestock drafts; effect.—For the purposes of this section, a livestock draft given as payment at a livestock auction market for a livestock purchase shall not be deemed an express extension of credit to the buyer and shall not defeat the creation of a lien on such an animal and its carcass and all products therefrom and proceeds thereof, to secure all or a part of its sales price, as provided in s. 534.54(4).

History.—s. 3, ch. 73-40; s. 1, ch. 75-212; s. 1, ch. 77-362; s. 1, ch. 79-18; s. 2, ch. 81-318; ss. 1, 2, 3, ch. 83-7; s. 2, ch. 86-70; s. 1, ch. 93-5.

534.50 Report and notice of dishonored check or draft.—It shall be the duty and responsibility of each livestock market to report to the department within 24 hours after having knowledge that a check or draft issued in payment for livestock has been dishonored, and it shall be the duty and responsibility of the department to notify all licensed livestock markets of the fact of such dishonor of any such check or draft issued in payment for livestock.

History.—s. 4, ch. 73-40; s. 2, ch. 81-318; ss. 2, 3, ch. 83-7; s. 1, ch. 93-5.

534.501 Livestock draft; unlawful to delay payment.—It shall be unlawful for the purchaser of livestock to delay payment of the livestock draft upon presentation of said draft at the payor's bank. Nothing contained in this section shall be construed to preclude a payor's right to refuse payment of an unauthorized draft.

History.—s. 2, ch. 77-362; s. 2, ch. 81-318; ss. 2, 3, ch. 83-7; s. 1, ch. 93-5.

534.51 Prohibition against filing complaint.—A livestock market shall be prohibited from filing a complaint under s. 604.21 if such livestock market has violated any provision of ss. 534.47–534.53 in connection with any transaction included in the cause of action for said complaint.

History.—s. 5, ch. 73-40; s. 2, ch. 81-318; ss. 2, 3, ch. 83-7; s. 1, ch. 93-5.

534.52 Violations; refusal, suspension, revocation; penalties.—

(1) For any violation of ss. 534.47–534.53, the department may refuse to renew a license or may suspend or revoke a license already issued, upon notice to the applicant or licensee of its intention so to refuse, suspend, or revoke by giving its reasons therefor. The applicant or licensee shall have 15 days thereafter in which to request a hearing on the department's intentions to refuse, suspend, or revoke his license, and upon his failure to do so within said time, refusal, suspension, or revocation shall become final without further procedure.

(2) In addition, or as an alternative to refusing, suspending, or revoking a license in cases involving violations, the department may impose a fine not to exceed \$500 for the first offense and not to exceed \$1,000 for the second or subsequent violations. When imposed and paid, such fines shall be deposited in the General Inspection Trust Fund.

(3) Failure to comply with the provisions of s. 534.501 shall be a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

History.—s. 6, ch. 73-40; s. 3, ch. 77-362; s. 6, ch. 78-95; s. 2, ch. 81-318; ss. 2, 3, ch. 83-7; s. 3, ch. 86-70; s. 133, ch. 91-224; s. 1, ch. 93-5.

534.53 Information and records.—The livestock auction market shall be required to record and maintain information or records necessary to properly administer and enforce ss. 534.47–534.53, and such records shall be made available for inspection by all law enforcement officers and by the department or its agents during regular business hours.

History.—s. 7, ch. 73-40; s. 1, ch. 81-187; s. 2, ch. 81-318; ss. 2, 3, ch. 83-7; s. 1, ch. 93-5.

534.54 Cattle or hog processors; prompt payment; penalty; lien.—

(1) As used in this section:

(a) "Livestock" means cattle or hogs.

(b) "Meat processor" means a person, corporation, association, or other legal entity engaged in the business of slaughtering cattle or hogs.

(2)(a) A meat processor who purchases livestock from a seller, or any person, corporation, association, or other legal entity who purchases livestock from a seller for slaughter, shall make payment by cash or check for the purchase price of the livestock and actually deliver the cash or check to the seller or his representative at the location where the purchaser takes physical possession of the livestock on the day the transfer of possession occurs or shall wire transfer of funds on the business day within which the possession of said livestock is transferred. However, if the transfer of possession is accomplished after normal banking hours, said payment shall be made in the manner herein provided not later than the close of the first business day following said transfer of possession. In the case of "grade and yield" selling, the purchaser shall make payment by wire transfer of funds or by personal or cashier's check by registered mail postmarked not later than the close of the first business day following determination of "grade and yield."

(b) All instruments issued in payment hereunder shall be drawn on banking institutions which are so

located as not artificially to delay collection of funds through the mail or otherwise cause an undue lapse of time in the clearance process.

(3) In all cases in which a purchaser who purchases livestock for slaughter from a seller fails to make payment for the livestock as required by this section or artificially delays collection of funds for the payment of the livestock, the purchaser shall be liable to pay the owner of the livestock, in addition to the price of the livestock:

(a) Twelve percent damages on the amount of the price.

(b) Interest on the purchase price of the livestock at the highest legal rate from and after the transfer of possession until payment is made as required by this section.

(c) A reasonable attorney's fee for the prosecution of collection of the payment.

(4)(a) Any person, partnership, firm, corporation, or other organization which sells livestock shall have a lien on such animal and its carcass, all products therefrom, and proceeds thereof to secure all or a part of its sales price.

(b) The lien provided in this subsection shall be deemed to have attached and to be perfected upon delivery of the livestock to the purchaser without further

action, and such lien shall continue in the livestock and its carcass, all products therefrom, and proceeds thereof without regard to possession thereof by the party entitled to such lien without further perfection.

(c) If the livestock or its carcass or products therefrom are so commingled with other livestock, carcasses, or products so that the identity thereof is lost, then the lien granted in this subsection shall extend to the same effect as if same had been perfected originally in all such animals, carcasses, and products with which it has become commingled. However, all liens so extended under this paragraph to such commingled livestock, carcasses, and products shall be on a parity with one another, and, with respect to such commingled carcasses or products upon which a lien or liens have been so extended under this paragraph, no such lien shall be enforceable as against any purchaser without actual knowledge thereof purchasing one or more of such carcasses or products in the ordinary course of trade or business from the party having commingled such carcasses or products or against any subsequent transferee from such purchaser, but in the event of such sale, such lien shall instead extend to the proceeds of such sale.

History.—s. 1, ch. 76-62; s. 4, ch. 86-70.