

## **CHAPTER 4.1-73 BRANDING LIVESTOCK**

### **4.1-73-01. Definition.**

For purposes of this chapter, "brand" means an identifying imprint that is:

1. Placed on livestock by use of a hot branding iron; or
2. Placed on equines by means of either a hot branding iron or a freeze branding technique.

### **4.1-73-02. Brand - Application for ownership.**

1. To acquire ownership of a brand, a person shall file an application with the North Dakota stockmen's association.
2. The application must contain a depiction of the proposed brand.
3. The application must include a statement regarding:
  - a. The kind of livestock on which the brand will be placed; and
  - b. The placement or position of the brand on each kind of livestock listed in subdivision a.
4. The chief brand inspector shall review each application to ensure compliance with the requirements of this chapter.

### **4.1-73-03. Brands - Requirements for recording.**

1. The chief brand inspector shall approve an application for ownership of a brand, filed in accordance with section 4.1-73-02, and record the brand, unless:
  - a. The chief brand inspector determines that:
    - (1) Official records indicate the brand is owned by another person;
    - (2) The brand is deceptively similar to another recorded brand;
    - (3) The brand is recorded in another state;
    - (4) The brand may not be legible when placed on livestock; or
    - (5) The proposed placement or position of the brand does not meet the requirements of section 4.1-73-05; or
  - b. The brand:
    - (1) Consists of only one letter, number, or symbol, except as provided in subsection 2;
    - (2) Contains either the letter "g" or the letter "q";
    - (3) Contains a letter not found in the modern English alphabet;
    - (4) Contains the numeral "0" or "1";
    - (5) Contains a dot;
    - (6) Contains a letter, number, or symbol placed within another letter, number, or symbol; or
    - (7) Contains a symbol other than:
      - (a) A diamond;
      - (b) An arrow;
      - (c) A mill iron;
      - (d) A cross;
      - (e) A heart;
      - (f) A box;
      - (g) A triangle;
      - (h) A quarter circle;
      - (i) A bar;
      - (j) A star; or
      - (k) A forward or a backward slash.
2. The chief brand inspector may permit the recording of a brand that consists of one letter, number, or symbol, provided the brand meets all other statutory requirements for recording and is to be placed only on goats or sheep.

#### **4.1-73-04. Brand inspection certificate.**

Upon approving an application, the chief brand inspector shall provide a brand certificate to the owner. The certificate is evidence of the brand's ownership.

#### **4.1-73-05. Brands - Permissible locations.**

1. In the case of cattle, brands that meet all other statutory requirements for recording may be placed only on:
  - a. A designated shoulder;
  - b. A designated rib; or
  - c. A designated hip.
2. In the case of horses and mules, brands that meet all other statutory requirements for recording may be placed only on:
  - a. A designated shoulder;
  - b. A designated hip; or
  - c. A designated jaw.
3. In the case of bison, brands that meet all other statutory requirements for recording may be placed only on:
  - a. A designated rib; or
  - b. A designated hip.
4. In the case of any other livestock, brands that meet all other statutory requirements for recording may be placed only on those locations designated by the chief brand inspector. For purposes of this subsection, the designation of locations is not subject to rulemaking under chapter 28-32.

#### **4.1-73-06. Recorded numerical brand - Impermissible placement.**

A person may not place a recorded brand that consists entirely of upright numbers on the hips of cattle.

#### **4.1-73-07. Numerical brands - Applicability of designated placement provisions.**

The design and placement restrictions set forth in this chapter do not apply to:

1. A numerical brand that was first recorded before July 1, 1957, and which has been continually rerecorded; or
2. An unrecorded numerical brand that is used for purposes such as herd or animal identification or registration.

#### **4.1-73-08. Chief brand inspector - Determination regarding brand.**

A determination by the chief brand inspector regarding the acceptability of a brand or the permissibility of its location or placement, for purposes of recording, is final.

#### **4.1-73-09. Cancellation of brand.**

1. The chief brand inspector shall cancel a legally recorded brand if the chief brand inspector:
  - a. Receives for filing a bill of sale for the brand, properly executed by the owner, as shown in the records of the chief brand inspector;
  - b. Determines that the brand duplicates a previously recorded brand; or
  - c. Determines that the brand was obtained through fraud, misrepresentation, or other illegal means.
2. The chief brand inspector may cancel a legally recorded brand if the chief brand inspector determines that the brand has been recorded in another state.

#### **4.1-73-10. Expiration of brands.**

On January 1, 2016, and every five years thereafter, each livestock brand recorded in this state expires, unless:

1. The brand was issued within the six-month period immediately preceding the date of expiration; or

2. The brand has been rerecorded in accordance with this chapter.

#### **4.1-73-11. Expiration of brand - Notice to owner.**

1. Before September 1, 2015, and every five years thereafter, the chief brand inspector shall provide to each owner of record:
  - a. Written notice of the brand's expiration date;
  - b. Written notice of the owner's right to rerecord the brand; and
  - c. A written statement indicating that if the brand is allowed to expire, the person will have lost ownership interest in the brand and may no longer use the brand.
2. The chief brand inspector shall send the notice and statement required by this section to the owner:
  - a. Electronically; or
  - b. By first-class mail if requested by the owner.

#### **4.1-73-12. Expiration of brands - Notice by publication.**

1. The chief brand inspector shall publish in the official newspaper of each county a notice of the date by which livestock brands must be rerecorded in accordance with this chapter.
2. The notice must be published at least once per week for three successive weeks. The first publication must occur between the first and fifteenth day of September, before the expiration of all brands.

#### **4.1-73-13. Brands authorized for rerecording.**

Notwithstanding any other provision of this chapter, the chief brand inspector shall accept for rerecording:

1. Any brand that the owner previously recorded; and
2. A brand that consists of one letter, number, or symbol, provided the brand is to be placed only on goats or sheep.

#### **4.1-73-14. Recording and rerecording brands - Fee.**

Each application for recording or rerecording a brand must be accompanied by a fee in the amount of twenty-five dollars.

#### **4.1-73-15. Reassignment of expired brand.**

1.
  - a. Except as provided in subdivision b, for a period of one year from the date of a brand's expiration, the chief brand inspector may not reassign the expired brand to any person other than the registered owner at the time of the brand's expiration.
  - b. If the person who owned the brand at the time it expired provides the chief brand inspector with written authorization, the chief brand inspector may reassign the brand to a new owner, at any time during the one-year period.
2. Upon expiration of a brand and the passage of time or the procurement of authorization, as set forth in subsection 1, the chief brand inspector may accept an application to record the brand, provided the brand meets the requirements of this chapter.

#### **4.1-73-16. Use of unrecorded brand - Penalty.**

A person is guilty of a class B misdemeanor if the person places upon an animal a brand that has not been recorded in accordance with this chapter.

#### **4.1-73-17. Defacing brands - Unlawful branding - Penalty.**

A person is guilty of a class A misdemeanor for a first offense and a class C felony for a second or subsequent offense if the person:

1. Alters, defaces, or attempts to alter or deface the brand on any animal owned by another for the purpose of deceiving others as to the animal's ownership; or

2. Willfully brands, or causes to be branded, any animal owned by another for the purpose of deceiving others as to the animal's ownership.

**4.1-73-18. Bill of sale - Copy with shipment - Effect - Penalty.**

1. a. Except as provided in subsection 2, a person may not sell any livestock carrying a recorded brand unless the seller is the owner of the recorded brand and delivers a bill of sale for the livestock to the purchaser. The bill of sale must include:
  - (1) The date;
  - (2) The name, address, and signature of the seller;
  - (3) The name, address, and signature of an individual who is at least eighteen years of age and who can verify the name and signature of the seller;
  - (4) The name and address of the buyer;
  - (5) The total number of animals sold;
  - (6) A description of each animal sold as to sex and color; and
  - (7) A depiction of the recorded brand.
- b. The buyer shall retain the bill of sale for as long as the buyer owns any animals described in the bill of sale.
- c. The seller shall provide a copy of the bill of sale to the individual hauling the livestock. The individual shall ensure that the document remains with the livestock while in transit.
- d. The bill of sale or a copy of the bill of sale must be shown by the possessor on demand to any law enforcement officer or brand inspector.
- e. The bill of sale is prima facie evidence of the sale of the livestock described in the bill of sale.
2. Subsection 1 does not apply to the sale of livestock for which a brand inspector has issued a certificate of ownership.
3. Any person willfully violating this section is guilty of a class B misdemeanor for a first offense and a class A misdemeanor for a second or subsequent offense.

**4.1-73-19. Proof of ownership - Alteration or falsification - Penalty.**

A person that knowingly makes, completes, alters, or in any way falsifies any document evidencing proof of livestock ownership, with the intent to deceive or harm another, is guilty of a class B felony.

**4.1-73-20. False proof of ownership - Sale of livestock - Penalty.**

A person willfully providing false proof of ownership in conjunction with the sale of livestock is guilty of a class B misdemeanor for a first offense and a class A misdemeanor for a second or subsequent offense.

**4.1-73-21. Transportation of livestock from state - Brand inspection - Penalty.**

1. A person may not transport or attempt to transport cattle, horses, or mules from this state unless a brand inspector has inspected the livestock and issued a certificate of ownership. The certificate must remain with the livestock while in transit and be presented to the purchaser upon arrival at the destination. This subsection does not apply to a person that:
  - a. Transports cattle, horses, or mules from this state to obtain for the animals emergency medical treatment by a licensed veterinarian; or
  - b. Transports cattle, horses, or mules from this state to a livestock auction market, buying station, or packing plant, that is located in a bordering state and which is provided with brand inspection services in accordance with section 4.1-73-24.
2. A person may not remove cattle, horses, or mules from a livestock auction market, buying station, or packing plant until a brand inspector has inspected the livestock and issued a certificate of ownership.

3. Any person willfully violating this section is guilty of a class A misdemeanor. Any person willfully violating this section a second time within five years or willfully violating this section three or more times is guilty of a class C felony.

**4.1-73-22. Request for reinspection - Cost.**

1. A person may request that a brand inspector conduct a reinspection if the person has reason to believe that:
  - a. An error was made during the brand inspection; and
  - b. Cattle, horses, or mules were shipped to an unintended destination as a result of the error.
2. If it is determined that an error was made during the brand inspection, the North Dakota stockmen's association shall bear the cost of the reinspection. If it is determined that a brand inspection error was not made, the person that requested the reinspection shall reimburse the North Dakota stockmen's association for the cost of the reinspection.

**4.1-73-23. Brand inspection services - Out-of-state facilities.**

1. The state board of animal health may authorize the provision of brand inspection services at a livestock auction market, buying station, or packing plant located outside this state.
2. In order to obtain brand inspection services under this section, an entity shall file a petition with the state board of animal health.
3. Before making a determination on the petition, the state board of animal health shall provide the North Dakota stockmen's association with an opportunity to comment.
4. The state board of animal health shall establish by rule the criteria to be considered in determining whether to authorize the services.

**4.1-73-24. Rules - Fees for brand inspection.**

1. The state board of animal health, after seeking advice from the North Dakota stockmen's association, shall adopt rules regarding:
  - a. The provision of brand inspection services at livestock auction markets, packing plants, and buying stations; and
  - b. The provision of brand inspection services at locations other than those listed in subdivision a.
2. The rules must include:
  - a. The fees to be charged for the provision of the brand inspections;
  - b. The collection of fees by the brand inspectors; and
  - c. The time and manner in which the brand inspectors must submit the fees to the North Dakota stockmen's association.

**4.1-73-25. Slaughtering of cattle - Records - Penalty.**

1. Any person slaughtering cattle on a custom basis or for the purpose of selling the meat at retail or wholesale shall record:
  - a. The date each animal was purchased or accepted for custom slaughtering;
  - b. The name and address of:
    - (1) The seller; or
    - (2) The person for whom custom slaughtering is being performed;
  - c. The animal's age or estimated age;
  - d. The animal's sex; and
  - e. Any brand found on the animal.
2. Any person required to record information in accordance with this section shall:
  - a. Compile the information in the manner directed by the North Dakota stockmen's association; and
  - b. Forward the information to the North Dakota stockmen's association at least quarterly.

3. Until such time as the information is forwarded to the North Dakota stockmen's association, any person required to record information in accordance with this section shall make the information available for inspection by a representative of the association, upon request.
4. Any information created, collected, or maintained by the North Dakota stockmen's association under this section is confidential and not subject to the open records requirements of section 44-04-18. The information may be released by the association only:
  - a. Upon the written consent of every person identified or identifiable by the information;
  - b. In accordance with federal law;
  - c. To any state or federal agency for the purposes of animal disease control or animal disease traceback;
  - d. To the attorney general and any other law enforcement agency pursuing a criminal investigation; or
  - e. Pursuant to an order issued by a court upon a showing of good cause.
5. Any person violating this section is guilty of an infraction.

**4.1-73-26. Record of brands.**

The chief brand inspector shall keep a record of all brands issued in this state. The record must include:

1. The name and address of the person that owns the brand;
2. A depiction of the brand;
3. The type of livestock on which the brand is authorized for use; and
4. The location or placement of the brand as authorized by the chief brand inspector.

**4.1-73-27. Chief brand inspector to issue brand book.**

1. The chief brand inspector shall compile and issue a brand book from the records required by section 4.1-73-26, as of the final date for rerecording and shall compile and issue an annual supplement.
2.
  - a. The chief brand inspector shall provide a paper or an electronic copy of the brand book and each annual supplement, free of charge, to:
    - (1) Each brand inspector; and
    - (2) Any other law enforcement officer located in this state upon request.
  - b. The chief brand inspector shall make paper copies of the brand books and annual supplements available for purchase by all other persons. The purchase price must be established by the North Dakota stockmen's association and approved by the state board of animal health.
3. The chief brand inspector shall post the brand book and each annual supplement on the North Dakota stockmen's association website.

**4.1-73-28. Official brand book - Presumptive evidence.**

The official brand book published by the chief brand inspector must be received in all courts of this state as presumptive evidence of the recording and ownership of livestock brands.

**4.1-73-29. Effect of recorded brand - Bill of sale to be given and kept.**

A brand recorded in accordance with this chapter and properly located on livestock is prima facie evidence that the animal bearing the brand is the property of the brand's owner, unless covered by a bill of sale as provided by section 4.1-73-18.