Livestock Diseases

This Act expands the authority of the state department of agriculture to implement preventative measures to guard against the introduction of new livestock diseases. Specifically, it:

- Authorizes new disease surveillance authorities,
- Grants the department the authority to establish a voluntary herd health registry program and to certify herds kept in accordance with disease best management practices, and
- Directs the department to develop an emergency disease response plan in order to coordinate and mobilize resources to contain new dangerous diseases that might be introduced.

It makes other minor changes with respect to disposing dead livestock and transporting diseased animals.

Submitted as:
Nebraska
LB 438

Suggested Legislation

(Title, enacting clause, etc.)

Section 1. [Short Title.] This Act may be cited as “The Livestock Disease Act.”

Section 2. [Definitions.] As used in this Act:

1. “Accredited veterinarian” means a veterinarian approved by the deputy administrator of the United States Department of Agriculture in accordance with 9 C.F.R. Part 161, as such regulation existed on the effective date of this Act;
2. “Animal” means all vertebrate members of the animal kingdom except humans or uncaptured wild animals;
3. “Bureau of Animal Industry” means the Bureau of Animal Industry of the Department of Agriculture of the State and includes the [State Veterinarian], [deputy state veterinarian, veterinary field officers, livestock inspectors, investigators], and other employees of the bureau;
4. “Dangerous disease” means a disease transmissible to and among livestock which has the potential for rapid spread, serious economic impact or serious threat to livestock health, and is of major importance in the trade of livestock and livestock products;
5. “Department” means the [Department of Agriculture of the State];
6. “Director” means the [Director of Agriculture of the State] or his or her designee;
7. “Domesticated cervine animal” means any elk, deer, or other member of the family cervidae legally obtained from a facility which has a license, permit, or registration authorizing domesticated cervine animals which has been issued by the state where the facility is located and such animal is raised in a confined area;
8. “Exposed” means being part of a herd which contains or has contained an animal infected with a disease agent which affects livestock or having had a reasonable opportunity to come in contact with an infective disease agent which affects livestock;
9. “Herd” means any group of livestock maintained on common ground for any purpose or [two (2)] or more groups of livestock under common ownership or supervision geographically separated but which have an interchange of livestock without regard to health status;
10. “Livestock” means cattle, swine, sheep, horses, mules, goats, domesticated cervine animals, ratite birds, and poultry;
(11) “Poultry” means domesticated birds that serve as a source of eggs or meat and includes, but is not limited to, chickens, turkeys, ducks, and geese;

(12) “Program disease” means a livestock disease for which specific legislation exists for disease control or eradication;

(13) “Quarantine” means restriction of movement imposed by the [department] on an animal, group of animals, or herd of animals because of infection with, or exposure to, a disease agent which affects livestock and use of equipment, facilities, land, buildings, and enclosures which are used or have been used by animals infected with, or suspected of being infected with, a disease agent which affects livestock;

(14) “Ratite bird” means any ostrich, emu, rhea, kiwi, or cassowary;

(15) “Sale” means a sale, lease, loan, trade, or gift;

(16) “Surveillance” means the collection and testing of livestock blood, tissue, hair, body fluids, discharges, excrements, or other samples done in a herd or randomly selected livestock to determine the presence or incidence of disease in the state or area of the state; and

(17) “Veterinarian” means an individual who is a graduate of an accredited college of veterinary medicine.

Section 3. [Department of Agriculture: Responsibilities.]

(1) The [Department of Agriculture] shall be vested with the power and charged with the duties of protecting the health of livestock in this state and determining and employing the most efficient and practical means for the prevention, suppression, control, and eradication of dangerous, infectious, contagious, or otherwise communicable diseases among livestock and such diseases transmissible from other animals to livestock. To that end, the [department] may place in quarantine any county or part of any county, any private premises, or any private or public stockyards and may quarantine any animal infected with such disease or which has been or is suspected of having been exposed to infection therefrom, may kill any animal so infected, and may regulate or prohibit the arrival into and departure from and movement within the state of any animal infected with such disease or exposed or suspected of having been exposed to the cause, infection, or contagion therefrom. At the cost of the owner, the [department] may detain any animal found in violation of any [departmental] or statutory regulation or prohibition.

(2) The [department] may adopt, promulgate, and enforce such rules and regulations as may be necessary for the supervision and control of manufactured and refined food for animals to prevent deleterious substances being present in human foods of animal origin and the manufacture, importation, sale, and storage of any biological material including semen, remedy, or curative agent for use on or in any animal that may be capable of causing or spreading disease, and as far as practicable such rules and regulations approved by the United States Department of Agriculture shall be adopted. All of the powers and duties of the [department] with reference to the protection of the health of livestock shall be exercised by and through the [Bureau of Animal Industry].

Section 4. [Animal Disease Control.]

(1) The [Legislature] finds and declares that animal disease control is essential to the livestock industry and the health of the economy of this state. In carrying out its powers and duties, the [department] shall evaluate activities resulting from the following subdivisions to determine their relevance to protecting the health of livestock and review its available resources. When [department] funds and personnel are available and such activities are determined by the [department] to be relevant, feasible, and consistent with [insert citation], the [department]:

(A) Shall develop a statewide livestock emergency response system capable of coordinating and executing a rapid response to the incursion, or potential incursion, of a dangerous livestock disease episode which poses a threat to the health of the state’s livestock and could cause a serious economic impact on the state;

(B) Shall conduct surveillance to monitor program disease control and eradication programs;

(C) Shall conduct surveillance to detect and monitor nonprogram diseases which are, or have the potential of, causing a serious health threat to livestock. The [department] shall determine and employ the
most efficient and practical means to conduct surveillance for livestock diseases at such places as in livestock herds, at slaughter establishments, at livestock concentration points, and at other places where livestock are assembled. When the diseases are nonprogram diseases, surveillance shall be done when in concurrence with the owner of the premises where the surveillance is to be conducted, except that if the [State Veterinarian] determines, in consultation and agreement with the respective livestock health committee described in subdivision (D) of this section, that the diseases may pose a serious threat to the livestock industry, the [State Veterinarian] may order surveillance to be conducted at any place where livestock are assembled. If an agreement between the [State Veterinarian] and the respective livestock health committee cannot be reached, the final decision shall be made by the [director];

(D) Shall encourage involvement from livestock producers by forming livestock health committees to provide ways for producers to assist the [department] in developing policy regarding livestock disease issues. Membership of such committees shall be selected by the respective livestock groups. Additional appointments may be made by the [director]. The purpose of the committees is to advise and recommend, to the [department], when a disease or diseases should be monitored by surveillance and what diseases should be considered for proposed legislation for a disease control eradication program;

(F) Shall provide voluntary livestock certification programs as provided in section 11 of this Act.

(G) Shall cooperate and contract with people or local, state, and national organizations, public or private, and enter into agreements with other state or federal agencies to allow such agencies’ personnel to work in this state and to allow the [department]’s personnel to work in other states or with federal agencies under a cooperative work program; and

(H) Shall encourage the use of private accredited veterinarians whenever feasible in carrying out the provisions of this Act.

Section 5. [Enforcement.]

(1) The [department] and all inspectors and people appointed and authorized to assist in the work of such the [department] shall enforce the provisions of this Act as designated.

(2) The [department] and any officer, agent, employee, or appointee of the [department] shall have the right to enter upon the premises of any person who has, or is suspected of having, any animal thereon, including any premises where the carcass or carcasses of dead livestock may be found or where a facility for the disposal or storage of dead livestock is located, for the purpose of making any and all inspections, examinations, tests, and treatments of such animal, to inspect livestock carcass disposal practices, and to declare, carry out, and enforce any and all quarantines.

(3) The [department], in consultation with the [Department of Environmental Quality] and the [Department of Health and Human Services Regulation and Licensure], may adopt and promulgate rules and regulations reflecting best management practices for the burial of carcasses of dead livestock.

(4) The [department] shall further adopt and promulgate such rules and regulations as are necessary to promptly and efficiently enforce and effectuate the general purpose and provisions of such sections.

Section 6. [Veterinary Inspectors.] Any veterinary inspector or agent of the United States Department of Agriculture, Animal and Plant Health Inspection Service, Veterinary Services, who has been officially assigned by the United States Department of Agriculture for service in this state may be officially authorized by the [department] to perform and exercise such powers and duties as may be prescribed by the [department] and when so authorized shall have and exercise all rights and powers vested by sections of this Act in agents and representatives in the regular employ of the [department].

Section 7. [Law Enforcement Agencies.] The [department] or any officer, agent, employee, or appointee thereof shall have power to may call upon any sheriff, deputy sheriff, or other police officer to execute the orders of the [department], and the officer shall obey the orders of the [department]. The officers performing such duties shall receive compensation therefore as is prescribed by law for like services and shall be paid therefore by the county. Any officer may arrest and take before the county judge of the county any
person found violating any of the provisions of this Act, and such officer shall immediately notify the county attorney of such arrest. The county attorney shall prosecute the person so offending according to law.

Section 8. [Duty to Report Livestock Diseases.]

(1) It is the duty of any person who discovers, suspects, or has reason to believe that any animal belonging to him or her or which he or she has in his or her possession or custody or which, belonging to another, may come under his or her observation is affected with any dangerous, infectious, contagious, or otherwise transmissible disease which affects livestock to immediately report such fact, belief, or suspicion to the [department] or to any agent, employee, or appointee thereof.

(2) The [department] shall work together with livestock health committees, livestock groups, diagnostic laboratories, practicing veterinarians, producers, and others who may be affected, to adopt and promulgate rules and regulations to effectuate a workable livestock disease reporting system according to the provisions of this section. The rules and regulations shall establish who shall report diseases, what diseases shall be reported, how such diseases shall be reported, to whom diseases shall be reported, the method by which diseases shall be reported, and the frequency of reports required. For disease reporting purposes, the [department] shall categorize livestock diseases according to relative economic or health risk factors and may provide different reporting measures for the various categories.

Section 9. [Disposing of Diseased Animal Carcasses.]

(1) Except as set out in subsection (2) subsections (2) and (3) of this section, it is the duty of the owner or custodian of any dead animal to cause such animal, within [thirty-six (36)] hours after receiving knowledge of the death of such animal, to be buried at least [four (4)] feet below the surface of the ground or to be completely burned on the premises where such animal dies unless the animal is disposed of to a duly licensed rendering establishment in this state. Such animal shall not be moved or transported from the premises where such animal has died except by the authorized agents and employees of the rendering establishment to which such carcass is disposed.

(2) Livestock carcasses up to [six hundred (600)] pounds may be incorporated into a composting facility on the premises where the livestock died and shall remain in such compost facility until completely composted before spreading on land. Any person incorporating livestock carcasses into a composting facility shall follow the operating procedures as set forth in the Journal of the American Veterinary Medical Association, Volume 210, No. 8. Not less than one copy of such journal, or portion thereof, shall be filed for use and examination by the public in the offices of the [Clerk of the Legislature] and the [Secretary of State]. The [department] shall regulate the composting of livestock carcasses and shall adopt and promulgate rules and regulations governing the same, by [insert date], which rules and regulations may incorporate or may modify the operating procedures set forth in this subsection.

(3) An animal carcass or carcass part may be transported by the owner or the owner’s agent to a veterinary clinic or veterinary diagnostic laboratory for purposes of performing diagnostic procedures.

(4) Carcasses disposed of in compliance with this section or section 15 of this Act are exempt from the requirements for disposal of solid waste under [insert citation].

Section 10. [Shipping Diseased Animals.] Except as otherwise provided in this section, no person shall ship, trail, drive, or otherwise move, permit to be moved, or permit to be driven from one county in the state to any other county in the state, from one part of a county to another, or to any other state any animal which is affected or suspected of being affected with any dangerous, infectious, contagious, or otherwise transmissible disease without first having obtained a permit from the [department]. An animal may be transported by the owner or the owner’s agent to and from a veterinary clinic or veterinary diagnostic laboratory for purposes of performing diagnostic procedures, examinations, treatments, or tests without obtaining such permit.

Section 11. [Voluntary Livestock Certification Programs.]

(1) The [department] shall provide voluntary livestock certification programs when requested by a livestock health committee and others when deemed by the [department] to be beneficial and appropriate for
the livestock industry. The [department] shall work together with the appropriate livestock producers or
groups and the state university to establish procedures for the certification of participating herds. The
[department] may maintain, through the [Bureau of Animal Industry], a livestock certification registry for
each livestock certification program that provides information regarding the voluntary certification program
and may include the names of participating livestock producers who have a herd or flock enrolled in the
voluntary livestock certification program.

(2) A livestock producer may request certification by completing an application for herd certification
on a form provided by the [department]. The livestock producers who choose to participate in a voluntary
livestock certification program shall pay the primary costs of the program, including all on-farm testing costs.
The [department] may use funds appropriated by the [Legislature], when available, to offset the costs of
disease research and laboratory testing when done in conjunction with a voluntary livestock certification
program.

(3) A livestock producer who is listed in a livestock certification registry may provide registry and
certification information regarding the livestock herd when selling livestock from the herd.

(4) The [department] shall remove the name of a livestock producer from a livestock certification
registry if the livestock producer has issued false records or statements or has made misleading claims to the
[department] with regard to livestock certification when such records, statements, or claims cause, or could
cause, the department to incorrectly include the name of a livestock producer in the certification registry.
Before removal, the [department] shall notify the livestock producer in writing of the [department]’s intention
and the reasons for the intended removal from the registry. The notice shall inform the applicant of his or her
right to request an administrative hearing before the director regarding his or her removal from the registry. A
request for hearing shall be in writing and shall be filed with the department within [thirty (30)] days after the
service of the notice is made. If a request for hearing is filed within the [thirty (30)]-day period, at least
[twenty (20)] days before the hearing the [director] shall notify the livestock producer of the time, date, and
place of the hearing. Such proceeding may be appealed as a contested case under [insert citation].

(5) A livestock producer whose name is removed from a livestock certification registry for the first
time shall not be eligible to reapply for [twelve (12)] months from the date of removal. A livestock producer
whose name is removed from a registry a subsequent time shall not be eligible to reapply for [thirty-six (36)]
months from the date of removal.

(6) The [department] and its representatives shall not be held liable for unintentional loss or damage
which occurs during certification testing, surveillance and monitoring, disease reporting, or disease research
and laboratory testing, or because of certification or lack thereof in a voluntary livestock certification
program.

Section 12. [Confidentiality.] Information collected or published by the [department] pursuant to this
Act shall not disclose the identity of individual livestock producers, except for:

(1) Information published in a livestock certification registry; and

(2) Information collected for the purpose of a voluntary livestock certification program that may be
disclosed by the [State Veterinarian] when, in his or her judgment, failure to disclose the name of a livestock
producer or producers could result in the spread of a dangerous, contagious, infectious, or otherwise
transmissible disease to and among livestock.

Section 13. [Procedures.] The [department] may establish procedures to implement this Act.

Section 14. [Penalties.]

(1) It shall be unlawful for any person to violate any rule or regulation prescribed and promulgated by
the [department] pursuant to authority granted by this Act, and any person so offending shall be guilty of a
[Class II Misdemeanor].

(3) The penal provisions of this section shall not be exclusive, but the [district courts] of this state, in
the exercise of their equity jurisdiction, shall have power may, by injunction, to compel the observance of,
and by that remedy enforce, the provisions of this Act and the rules and regulations established and
promulgated by the [department].

Section 15. [Research and Demonstration Facilities.]

(1) Livestock carcasses may be disposed of in a research or demonstration facility for innovative livestock disposal methods registered with the [department], except that a research or demonstration facility of liquefaction shall not be registered under this section and liquefaction shall not be permitted as a method of livestock disposal. The registration of a facility under this section shall contain a description of the facility, the location and proposed duration of the research or demonstration, and a description of the method of disposal to be utilized. The [department] may register up to [five (5)] such research or demonstration facilities conducted in conjunction with private livestock operations which meet all of the following conditions:

(A) The project is designed and conducted by one or more research faculty of the [state university];

(B) The project does not duplicate other research or demonstration projects;

(C) The project sponsors submit annual reports on the project and a final report at the conclusion of the project;

(D) The project employs adequate safeguards against disease transmission or environmental contamination; and

(E) The project meets any other conditions deemed prudent by the [director].

(2) It is the intent of the [Legislature] that the [department] register at least [one (1)] research or demonstration facility for innovative livestock disposal methods which shall be located upon the premises of each class of livestock waste control facility defined in [insert citation]. Before registering such facility, the [department] shall first consult with the [Department of Environmental Quality] and the [Department of Health and Human Services Regulation and Licensure]. The [department] may revoke the registration of the facility at any time if the [director] has reason to believe that the facility no longer meets the conditions for registration.

(3) Only the carcasses of livestock that have died upon the livestock operation premises where a research or demonstration facility for innovative livestock disposal methods is located may be disposed of at such facility. Carcasses from other livestock operations shall not be transported to such facility for disposal.

(4) A facility registered under this section is exempt from the requirements for disposal of solid waste under [insert citation].

Section 16. [Severability.] [Insert severability clause.]

Section 17. [Repealer.] [Insert repealer clause.]

Section 18. [Effective Date.] [Insert effective date.]