

2007 Bill 47

Third Session, 26th Legislature, 56 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 47

**LIVESTOCK COMMERCE AND ANIMAL
INSPECTION STATUTES
AMENDMENT ACT, 2007**

MR. MITZEL

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

Bill 47
Mr. Mitzel

BILL 47

2007

LIVESTOCK COMMERCE AND ANIMAL INSPECTION STATUTES AMENDMENT ACT, 2007

(Assented to , 2007)

HER MAJESTY, by and with the advice and consent of the
Legislative Assembly of Alberta, enacts as follows:

Livestock Identification and Commerce Act

Amends SA 2006 cL-16.2

**1(1) The *Livestock Identification and Commerce Act* is
amended by this section.**

(2) Section 1 is amended

(a) by repealing clause (a) and substituting the following:

(a) “abattoir” means

(i) an abattoir within the meaning of the *Meat Inspection Act*, and

(ii) an establishment within the meaning of the *Meat Inspection Act* (Canada);

(b) by repealing clause (f) and substituting the following:

(f) “brand” means

(i) a character or combination of characters, and

Explanatory Notes

Livestock Identification and Commerce Act

1(1) Amends chapter L-16.2 of the Statutes of Alberta, 2006.

(2) Section 1 presently reads in part:

1 In this Act,

(a) “abattoir” means an abattoir within the meaning of the Meat Inspection Act;

(f) “brand” means

(i) a character or combination of characters, and

(ii) any other mark or thing prescribed as a brand in the regulations

that is used for the purpose of denoting ownership of the livestock or a security interest in the livestock bearing the brand, but does not include an honorary brand, an age brand or an individual animal brand;

- (ii) any other mark or thing prescribed as a brand in the regulations

that is used for the purpose of denoting ownership of or a livestock security interest in the livestock bearing the brand, but does not include an honorary brand, an age brand or an individual animal brand;

(c) by adding the following after clause (u):

- (u.1) “livestock manifest” has the meaning given to it in the regulations;
- (u.2) “livestock permit” has the meaning given to it in the regulations;

(d) by adding the following after clause (v):

- (v.1) “livestock security interest” means a security interest registered under the *Personal Property Security Act* or under the *Bank Act* (Canada), and
 - (i) taken or reserved in livestock to secure payment of all or part of the purchase price of the livestock,
 - (ii) taken in livestock by a person who gave value for the purpose of enabling the owner of the livestock to acquire rights in the livestock, to the extent that the value was applied to acquire rights in the livestock, or
 - (iii) taken in livestock and other property by a person who gave value for the purpose of enabling the owner of the livestock to acquire rights in the livestock, to the extent that the value was applied to acquire rights in the livestock;

(e) in clause (bb)(ii) by striking out “miscellaneous”;

(f) by repealing clause (cc) and substituting the following:

- (cc) “security interest” means an interest in or charge on property to secure payment of a debt or the performance of an obligation of the owner of livestock, but does not include a writ as defined in the *Civil Enforcement Act*;

- (bb) *“sale proceeds”, in respect of a sale of livestock or livestock products, means the amount of money that represents the difference between*
- (i) *the full purchase price paid or to be paid for the livestock or livestock products sold, and*
 - (ii) *any miscellaneous expenses, sales commission, livestock inspection fee, service charge, levy or handling charge that is evidenced by a cheque, statement, invoice, promissory note or other memorandum issued in respect of the livestock or livestock products at the time of the sale;*
- (cc) *“security interest” means an interest in or charge on livestock to secure payment of a debt or the performance of an obligation of the owner of the livestock;*

(cc.1) “settlement statement” has the meaning given to it in the regulations;

(3) Sections 3(1), 10 and 11(1)(c) are amended by adding “livestock” before “security interest” wherever it occurs.

(4) Sections 14, 15 and 16 are repealed and the following is substituted:

Sale documentation required

14(1) Where livestock is sold, the owner of the livestock or the owner’s agent shall ensure that

- (a) the sale transaction is documented in writing, and
- (b) a copy of the documentation is provided to all of the parties to the sale transaction.

(2) The documentation referred to in subsection (1) must

- (a) be in the form of a bill of sale, invoice or settlement statement, and
- (b) contain the information prescribed by the regulations.

Disclosure of status by seller or dealer

14.1 A person who sells livestock or deals in livestock shall, in accordance with the regulations, disclose whether that person is

- (a) the owner of the livestock, or
- (b) a livestock dealer or livestock dealer’s agent acting on behalf of the owner of the livestock.

Owner’s declaration respecting livestock security interest

15 Where livestock is sold, the owner shall, in accordance with the regulations, provide a written declaration to the person who owes the sale proceeds to the owner of the livestock as follows:

- (a) if the livestock or the dam of the livestock being sold is subject to a livestock security interest, a declaration disclosing the name of every holder of a livestock

(3) Change from reference to “security interest” to reference to “livestock security interest”.

(4) Sections 14 to 16 presently read:

14(1) An owner of livestock shall provide a bill of sale in accordance with the regulations to any person who purchases livestock from the owner.

(2) Where a person sells livestock as an agent of the owner, that person shall provide the bill of sale under subsection (1) and is the agent of the owner for that purpose.

15 Where livestock is being transported for the purposes of sale, the owner of the livestock shall ensure that the name of the holder of any security interest in the livestock is disclosed on the livestock manifest.

16(1) A person who

(a) purchases livestock from the owner of the livestock or the owner’s agent, or

(b) sells livestock on behalf of the owner of the livestock

shall pay the sale proceeds within 2 business days of price discovery or possession, whichever occurs later.

(2) Except where otherwise required by law, a court order or the direction of an inspector, a person referred to in subsection (1) shall

(a) pay the sale proceeds to the owner of the livestock or any other person authorized by the owner on the livestock manifest or the bill of sale, and

(b) where the livestock manifest or bill of sale discloses a security interest in the livestock, pay the sale proceeds jointly to the owner of the livestock or other person referred to in clause (a) and the holder of the security interest.

(3) An agreement providing that any provision of this section does not apply is void.

security interest in the livestock or in the dam of the livestock;

- (b) if neither the livestock nor the dam of the livestock being sold is subject to a livestock security interest, a declaration stating that there is no livestock security interest in the livestock or in the dam of the livestock.

Duty to obtain declaration and payment of sale proceeds

15.1(1) Where livestock is sold, the person who owes the sale proceeds to the owner of the livestock shall

- (a) obtain from the owner the declaration referred to in section 15 before paying the sale proceeds, and
- (b) pay the sale proceeds in accordance with subsection (2).

(2) Notwithstanding the *Personal Property Security Act* and except where otherwise required by law, a court order or the instruction of an inspector, the person referred to in subsection (1) shall,

- (a) if the declaration under section 15 discloses the name of a holder of a livestock security interest, pay the sale proceeds jointly to the owner of the livestock and every holder of a livestock security interest named in the declaration, or
- (b) if the declaration under section 15 states that there is no livestock security interest, pay the sale proceeds to the owner of the livestock, the owner's agent or any other person authorized to receive payment by the owner of the livestock on the livestock manifest or the documentation referred to in section 14.

(3) The priority of security interests in livestock or in the dam of livestock and the priority of holders of security interests in livestock or in the dam of livestock to sale proceeds is not determined by this section or any payment required to be made in accordance with this section.

(4) Any provision of an agreement providing that any provision of this section does not apply is void.

(4) For the purposes of this section, “price discovery” and “possession” have the meaning given to them in the regulations.

Payment for livestock

16(1) A person who

(a) purchases livestock from the owner of the livestock or the owner's agent

(i) personally,

(ii) as an agent of a purchaser, or

(iii) through an agent,

or

(b) sells livestock on behalf of the owner of the livestock or the owner's agent

shall pay the sale proceeds within 2 business days of price discovery or possession, whichever occurs later.

(2) Any provision of an agreement providing that any provision of this section does not apply is void.

(3) For the purposes of this section, "pay", "price discovery" and "possession" have the meaning given to them in the regulations.

(5) The following is added after section 17:

No duty, obligation or liability imposed on holder of livestock security interest

17.1 Nothing in sections 14 to 17 imposes on a holder of a livestock security interest to whom joint payment is made a duty, obligation or liability to any person entitled to all or part of the sale proceeds.

(6) Section 18 is repealed and the following is substituted:

Statutory bar to conversion

18(1) Notwithstanding any other enactment, the common law or any contract, but subject to subsection (2), where livestock is sold and the livestock or the dam of the livestock is subject to a security interest, the seller of the livestock, the seller's agent, the purchaser of the livestock and the purchaser's agent and any person taking under them are not liable

(5) Provisions of Act do not impose a duty, obligation or liability on the holder of a livestock security interest.

(6) Section 18 presently reads:

18(1) Notwithstanding any other enactment, the common law or any contract, but subject to subsection (2), a purchaser of livestock is not liable

(a) in an action for conversion, detinue or replevin, or

(b) in any other action arising out of or related to the sale transaction that is specified in the regulations.

- (a) in an action for conversion, detinue or replevin, or
 - (b) in any other action that is specified in the regulations
- arising out of or related to the security interest.

(2) Subsection (1) does not apply

- (a) to a person who granted a security interest to which an action referred to in subsection (1) relates,
- (b) to a person who colluded or acted fraudulently to defeat a security interest to which an action referred to in subsection (1) relates,
- (c) to a person who failed to obtain a declaration from the owner of the livestock as required by section 15.1(1)(a),
- (d) to a person who failed to pay the sale proceeds as required by section 15.1(2)(a),
- (e) to a person who failed to have the livestock inspected as required under this Act, or
- (f) to a seller and a purchaser if they were associated persons at the time of the sale transaction.

(7) Section 19 is amended

(a) by repealing subsection (1)(c) and substituting the following:

- (c) the livestock is accompanied with any permit that is required under this Act.

(b) by repealing subsection (2)(a) and substituting the following:

- (a) the livestock is accompanied with a permit issued in accordance with this Act,

(c) by repealing subsection (3) and substituting the following:

- (3)** A livestock manifest that is required under this Act must be

(2) Subsection (1) does not apply if

- (a) the purchase was the result of collusion between the purchaser and the seller to defeat another person's security interest in the livestock,*
- (b) the purchaser failed to pay the sale proceeds in accordance with section 16(2)(b),*
- (c) the livestock were not inspected as required under this Act, or*
- (d) the purchaser and the seller are associated persons.*

(3) For the purpose of this section, a reference to purchaser or seller includes an agent acting for the purchaser or seller.

(7) Section 19 presently reads in part:

19(1) A person who transports or drives livestock in Alberta or to a destination outside of Alberta shall ensure that

- (c) the livestock is accompanied with any livestock permit, horse permit or pedigree cattle permit that is required under this Act.*

(2) A livestock manifest is not required in respect of the transportation or driving of livestock where

- (a) the livestock is accompanied with a livestock permit, a horse permit or a pedigree cattle permit issued in accordance with this Act,*

(3) A person transporting or driving livestock shall ensure that any livestock manifest that is required is

- (a) in the form prescribed by the regulations, and
- (b) completed in accordance with the regulations.

(4) A person who is issued a permit under this Act shall ensure that the information required to complete the permit is provided to the Minister in accordance with the regulations.

(8) Section 21 is repealed and the following is substituted:

Delivery of livestock

21 Notwithstanding the *Traffic Safety Act*, where livestock is being transported or driven on a livestock manifest or livestock permit, the person transporting or driving the livestock shall deliver the livestock in accordance with the regulations.

(9) Section 22 is amended by adding “or livestock permit” after “livestock manifest” wherever it occurs.

- (a) *in the form prescribed by the regulations, and*
- (b) *completed in accordance with the regulations by the owner of the livestock or the owner's agent.*

(8) Section 21 presently reads:

21(1) A person transporting or driving livestock shall deliver the livestock to the person to whom the livestock is being shipped as indicated on the livestock manifest or livestock permit.

(2) Notwithstanding subsection (1) or the Traffic Safety Act,

- (a) *if the livestock is being transported or driven on a livestock manifest, the person transporting or driving the livestock may deliver the livestock to any other person if authorized by the owner of the livestock or the owner's agent, and*
- (b) *if the livestock is being transported or driven on a livestock permit, the person transporting or driving the livestock may deliver the livestock to any other person authorized by the owner of the livestock or the owner's agent if the owner of the livestock or the owner's agent*
 - (i) *amends the livestock permit to reflect the change in destination of the livestock, and*
 - (ii) *forthwith provides notice to the issuing inspector of the changes to the livestock permit.*

(9) Section 22 presently reads:

22 Where livestock is being transported or driven on a livestock manifest,

- (a) *the person transporting or driving the livestock, and*
- (b) *the owner and the operator of the inspection site or other destination receiving the livestock*

shall distribute and otherwise deal with copies of the livestock manifest in accordance with the regulations.

(10) Sections 24(2) and 26 are amended by striking out “livestock permits, horse permits, pedigree cattle permits, bills of sale” **and substituting** “permits, documentation referred to in section 14 or 15”.

(11) Section 32(2) is amended by striking out “section 16” **and substituting** “section 15.1”.

(12) Section 34(3) is amended by striking out “buyer” **wherever it occurs and substituting** “purchaser”.

(13) Section 38(1)(c) is amended by striking out “bills of sale” **and substituting** “documentation referred to in section 14 or 15”.

(10) Sections 24(2) and 26 presently read:

24(2) In carrying out an inspection of livestock the inspector shall examine the identifiers on the livestock and any livestock manifests, livestock permits, horse permits, pedigree cattle permits, bills of sale and any other information or documentation that is reasonably available.

26 Where an inspector carries out an inspection of livestock,

- (a) the owner of the livestock or the owner's agent,*
- (b) the person in possession of the livestock, and*
- (c) the owner and the operator of an inspection site*

shall, on request, ensure that the inspector is provided with any livestock manifests, livestock permits, horse permits, pedigree cattle permits, bills of sale and any other information and documentation that may be required to satisfy the inspector that the person in possession of the livestock is the owner of the livestock or the owner's agent or is otherwise lawfully entitled to be in possession of the livestock and, in the case of a sale of livestock, to enable the inspector to determine who is entitled to the sale proceeds.

(11) Section 32(2) presently reads:

(2) Where livestock is sold under subsection (1)(b), the owner of the livestock is, subject to section 16, entitled to the sale proceeds.

(12) Section 34(3) presently reads:

(3) Where an inspector allows livestock to be sold under section 31(a)(ii) or 33(5) and there is no seller's agent, the inspector shall give the seller of the livestock and the buyer a notice in the prescribed form directing the buyer to withhold settlement and pay the sale proceeds to the Minister.

(13) Section 38(1) presently reads:

38(1) An inspector may

- (a) at any reasonable time enter any place, other than a dwelling place, for the purpose of making inspections under this Part and for the purpose of inspecting hides,*

(14) Section 43 is amended

(a) in clause (a) by adding “pay”, ” after “defining”;

(b) by adding the following after clause (b):

(b.1) respecting the manner in which a person who sells or deals in livestock may disclose information as required under section 14.1;

(c) by adding the following after clause (e):

(e.1) respecting the delivery of livestock being transported or driven on a livestock manifest;

(d) in clause (n) by adding the following after subclause (ii):

(ii.1) respecting the completion, distribution, retention and handling of permits,

(e) by adding the following after clause (n):

(n.1) respecting the delivery of livestock being transported or driven on a permit;

(f) by repealing clause (q) and substituting the following:

(q) prescribing the information required to be contained in the documentation referred to in section 14;

(q.1) respecting the circumstances under which the documentation referred to in sections 14 and 15 must be used in connection with a sale of livestock, and the preparation and handling of the documentation;

- (b) *require any person in the place to be interviewed and answer questions related to the purpose of the inspection, and*
- (c) *require the production of any licences, permits, livestock manifests, bills of sale, books, records or other documents that are relevant to the purpose of the inspection and examine them, make copies of them or remove them temporarily for the purpose of making copies.*

(14) Section 43 presently reads in part:

43 The Minister may make regulations

- (a) *defining “price discovery” and “possession” for the purposes of section 16;*
- (e) *respecting the completion, distribution, retention and handling of livestock manifests;*
- (n) *respecting the issuing of permits including, without limitation, regulations*
 - (i) *establishing different classes or kinds of permits,*
 - (ii) *respecting the procedure for applying for and issuing permits,*
 - (iii) *respecting the terms and conditions under which permits may be issued and terms and conditions to which permits are subject or may be made subject,*
 - (iv) *respecting the term for which permits remain in force, and*
 - (v) *respecting the circumstances under which permits may be cancelled and the procedure for cancelling permits;*
- (q) *respecting the circumstances under which bills of sale must be used in connection with a sale of livestock and the preparation and handling of bills of sale;*

(15) Section 44 is amended

(a) by repealing clause (a) and substituting the following:

(a) contravenes section 14(1), 14.1, 15, 15.1(1) or (2), 16(1), 17(2), (3), (4) or (5), 19(1) or (4), 20, 21, 22, 23, 25, 26, 27(1) or (2), 33(2) or (4), 34(2) or (4), 40(2) or 42(2);

(b) in clause (i) by striking out “buys” and substituting “purchases”.

(16) Section 47(2) and (3) are amended by striking out “buys” and substituting “purchases”.

(17) Section 56(1)(a) and (b) are amended by adding “as required by this Act” after “livestock products supplied or sold”.

(15) Section 44 presently reads:

44 A person is guilty of an offence who

- (a) contravenes section 14, 15, 16(1) or (2), 17(2), (3), (4) or (5), 19(1) or (3), 20, 21(1), 22, 23, 25, 26, 27(1) or (2), 33(2) or (4), 34(2) or (4), 40(2) or 42(2);*
- (i) buys livestock, sells livestock or offers livestock for shipment in a name other than the owner of the livestock.*

(16) Section 47(2) and (3) presently read:

(2) Subject to subsection (3), a person who buys or sells livestock or livestock products on one occasion is considered to be dealing in livestock or livestock products for the purposes of subsection (1).

(3) Where a person buys livestock, maintains the livestock for at least 30 days and then sells the livestock, that person is not considered to be dealing in livestock for the purposes of subsection (1).

(17) Section 56(1) presently reads:

56(1) For the purposes of this section, a default occurs in respect of a supply or sale of livestock or livestock products to a livestock dealer or livestock dealer's agent when

- (a) the livestock dealer or livestock dealer's agent fails to pay the person the sale proceeds in respect of the livestock or livestock products supplied or sold, unless the main reason for the failure to pay is a contract dispute between the livestock dealer or the livestock dealer's agent and the person who supplied or sold the livestock or livestock products respecting the supply or sale of the livestock or livestock products or the obligation to pay for the livestock or livestock products, or*
- (b) the livestock dealer or livestock dealer's agent fails to pay the person the sale proceeds in respect of the livestock or livestock products supplied or sold, the person obtains a judgment against the livestock dealer or livestock dealer's agent based on the livestock dealer's or the livestock dealer's agent's failure to pay and the judgment is unsatisfied for 20 or more days after the judgment becomes final.*

Animal Health Act

Amends SA 2007 cA-40.2

2(1) The *Animal Health Act* is amended by this section.

(2) Section 38(1) is amended by renumbering clause (a) as clause (a.1) and adding the following before clause (a.1):

- (a) to inspect any premises or land in or on which any animals, animal products or animal by-products are, or are proposed to be, bought, sold or stored under a licence issued under this Act,

(3) Section 69(1) is amended

(a) by adding the following after clause (a):

- (a.1) respecting the inspection of premises or land by inspectors;
- (a.2) respecting the inspection by inspectors of any activities being carried out under a licence issued under this Act;
- (a.3) respecting the inspection by inspectors of animals, animal products or animal by-products or contaminated material;

(b) by adding the following after clause (m):

- (m.1) respecting livestock markets, including, without limitation, regulations
 - (i) defining “livestock market facility”,
 - (ii) respecting the design, location and construction of livestock market facilities,
 - (iii) respecting the equipment in livestock market facilities,

Animal Health Act

2(1) Amends chapter A-40.2 of the Statutes of Alberta, 2007.

(2) Section 38(1) presently reads:

38(1) An inspector and persons assisting an inspector may, at any reasonable time, pass over land and enter any premises other than a private dwelling or a part of premises used as a private dwelling

(a) to inspect any activities being carried out under a licence issued under this Act, or

(b) to inspect animals, animal products, animal by-products or contaminated material that are present, have been present or are expected to be present on the land or premises to be inspected.

(3) Addition of Lieutenant Governor in Council regulation-making powers.

- (iv) respecting sanitation standards for livestock market facilities,
- (v) respecting the handling of livestock at livestock market facilities, and
- (vi) respecting the operation of livestock market facilities;

RECORD OF DEBATE

Stage	Date	Member	From	To
		Questions and Comments	From	To
Stage	Date	Member	From	To
		Questions and Comments	From	To
Stage	Date	Member	From	To
		Questions and Comments	From	To
Stage	Date	Member	From	To
		Questions and Comments	From	To