

# **NEW MEXICO BRAND LAWS**

## **NEW MEXICO STATUTES**

### **CHAPTER 30. Criminal Offenses**

#### **ARTICLE 18. Animals**

##### **30-18-3 Unlawful branding.**

Unlawful branding consists of either:

A. branding, marking or causing to be branded or marked any animal, which is the property of another, with any brand not the brand of the owner of the animal;

B. defacing or obliterating any brand or mark upon any animal which is the property of another; or

C. using any brand unless said brand shall have been duly recorded in the office of the cattle sanitary board of New Mexico [New Mexico livestock board] or the sheep sanitary board of New Mexico [New Mexico livestock board], whichever is applicable, and the person holds a certificate from the cattle sanitary board [New Mexico livestock board] or the sheep sanitary board [New Mexico livestock board] certifying to the fact of such record.

Whoever commits unlawful branding is guilty of a fourth degree felony.

### **CHAPTER 77. Livestock Code**

#### **ARTICLE 2. Livestock Board**

##### **77-2-1.1. Definitions**

As used in The Livestock Code:

A. "animals" or "livestock" means all domestic or domesticated animals that are used or raised on a farm or ranch, including the carcasses thereof, and exotic animals in captivity and includes horses, asses, mules, cattle, sheep, goats, swine, bison, poultry, ostriches, emus, rheas, camelids and farmed cervidae upon any land in New Mexico; provided that for the purposes of Chapter 77, Article 9 NMSA 1978, "animals" or "livestock" have the meaning defined in that article. "Animals" or "livestock" does not include canine or feline animals. For the purpose of the rules governing meat inspection, wild animals, poultry and birds used for human consumption shall also be included within the meaning of "animals" or "livestock";

B. "bill of sale" means an instrument in substantially the form specified in The Livestock Code by which the owner or his authorized agent transfers to the buyer the title to animals described in the bill of sale;

C. "bison" or "buffalo" means a bovine animal of the species bison;

D. "board" means the New Mexico livestock board;

E. "bond" means cash or an insurance agreement from a New Mexico licensed surety or insurance corporation pledging surety for financial loss caused to another, including certificate of deposit, letter of credit or other surety as may be approved by the United States department of agriculture, packers and stockyards administration or the board;

F. "brand" means a symbol or device in a form approved by and recorded with the board as may be sufficient to readily distinguish livestock should they become intermixed with other livestock;

G. "brand inspector" means an inspector who is not certified as a peace officer;

H. "carcasses" means dead or dressed bodies of livestock or parts thereof;

I. "cattle" means animals of the genus bos, including dairy cattle, and does not include any other kind of livestock;

J. "dairy cattle" means animals of the genus bos raised not for consumption but for dairy products and distinguished from meat breed cattle;

K. "director" means the executive director of the board;

L. "disease" means a communicable, infectious or contagious disease;

M. "district" means a livestock inspection district;

N. "estrays" means livestock found running at large upon public or private lands, either fenced or unfenced, whose owner is unknown, or that is branded with a brand that is not on record in the office of the board or is a freshly branded or marked offspring not with its branded or marked mother, unless other proof of ownership is produced;

O. "inspector" means a livestock or brand inspector;

P. "livestock inspector" means a certified inspector who is granted full law enforcement powers for enforcement of The Livestock Code and other criminal laws relating to livestock;

Q. "mark" means an ear tag or ownership mark that is not a brand;

R. "meat" means the edible flesh of poultry, birds or animals sold for human consumption and includes livestock, poultry and livestock and poultry products;

S. "mule" means a hybrid resulting from the cross of a horse and an ass; and

T. "person" means an individual, firm, partnership, association, corporation or similar legal entity.

**77-2-2 New Mexico livestock board created; transfer of powers; transfer of property. (Effective until July 1, 2000.)**

A. In order to achieve the purposes set forth in Section 1 [77-2-1 NMSA 1978], there is hereby created a board to be known as the "New Mexico livestock board." The New Mexico livestock board shall have all powers which have heretofore been held by the cattle sanitary board or the sheep sanitary board and those powers are hereby transferred to the New Mexico livestock board.

B. Wherever in the NMSA 1978 the term "board" or "sanitary board" is used in relation to the sheep sanitary board or the cattle sanitary board, it shall mean the New Mexico livestock board. Wherever in the NMSA 1978 the terms [term] "sheep sanitary board" or "cattle sanitary board" are [is] used it shall mean the New Mexico livestock board.

C. Wherever in the NMSA 1978 the term "secretary," "secretary of the board," "secretary of the sheep sanitary board," "secretary of the cattle sanitary board" or any similar term is used in relation to the secretary of the sheep sanitary board or the secretary of the cattle sanitary board, it shall mean the executive director of the New Mexico livestock board.

D. All books, records, property and equipment of the sheep sanitary board and the cattle sanitary board are transferred to the New Mexico livestock board.

**77-2-3 New Mexico livestock board; scope; composition; qualifications; terms; meetings. (Effective until July 1, 2000.)**

A. The New Mexico livestock board is established to govern the livestock industry of the state in the manner required by law.

B. The New Mexico livestock board shall be composed of nine members appointed by the governor and adequately representing the state livestock industry. Seven of the nine members must raise and own cattle or raise and own sheep in this state and be residents of this state. Two members of the board shall not raise or own cattle or sheep but shall be appointed to represent the general public. The two public members also shall be residents of New Mexico. The majority of the members of the board at any given time shall, however, be primarily engaged in the business of raising and owning cattle in this state. The board shall be bipartisan, but no more than five members of the board shall belong to the same political party.

C. The term of office of each member of the New Mexico livestock board shall be six years; provided, that of the members of the board to be appointed after the passage and approval of this act, two shall be appointed for a term of two years, two for a term of four years and three for a term of six years and, upon the expiration of the terms of such appointments, the successors shall be appointed for the full term of six years.

D. The New Mexico livestock board shall elect from their number a chairman, vice-chairman and secretary. The board shall hold two regular meetings in each year, one in June and the other in December. Special meetings may be called by the chairman or by the vice-chairman in the event that the chairman is absent from the state or because the chairman is physically incapacitated or by a majority of the members of the board.

**77-2-4 Compensation of members. (Effective until July 1, 2000.)**

The members of the New Mexico livestock board shall receive per diem and mileage as provided in the Per Diem and Mileage Act [10-8-1 to 10-8-7 NMSA 1978] and shall receive no other compensation, perquisite or allowance.

**77-2-5 Report of board.**

It shall be the duty of the board during the first week in December of each year to transmit to the governor a report of its activities for the previous calendar year. This report shall contain a detailed account of all of the receipts and expenditures of money by the board, together with other facts relating to the livestock industry in New Mexico which may be of public interest. The report of the board shall be transmitted by the governor to the legislature.

**77-2-6 Livestock board attached to New Mexico department of agriculture.**

The board is attached for coordinative purposes to the New Mexico department of agriculture. The board shall execute a memorandum of understanding with the director of the New Mexico department of agriculture, identifying areas for cooperation and coordination of the activities of the board with those of the department of agriculture. Administrative and other services may be provided the board by the department pursuant to the terms of the memorandum of understanding. The board shall submit an annual report on its activities to the director. This section shall not be construed to affect the exercise of any board power or duty.

**77-2-7 Additional powers of the board.**

In addition to the powers transferred from the cattle and sheep sanitary boards, the board may:

A. exercise general regulatory supervision over the livestock industry of this state in order to protect the industry from theft and diseases and in order to protect the public from diseased or unwholesome meat or meat products;

- B. appoint and fix the salary of an executive director who shall file an oath and be bonded in an amount fixed by the board. The director shall manage the affairs of the board under the direction of the board. He shall be chosen solely on qualifications and fitness for the office. He shall devote his entire time to the duties of the office;
- C. employ clerical help, provide office space and purchase equipment, including vehicles;
- D. employ livestock inspectors and brand inspectors and other personnel necessary to carry out the purposes of The Livestock Code [Chapter 77, Articles 2 through 18 NMSA 1978]. All livestock inspectors appointed by the board shall have the same powers as any other peace officer in the enforcement of that code;
- E. appoint a state veterinarian and subordinate veterinarians as are necessary to carry out the duties of the board;
- F. adopt and promulgate rules to control the importation and exportation of animals;
- G. establish livestock inspection districts;
- H. establish quarantine, provide its boundaries and give notice of the quarantine and do all other things necessary to effect the object of the quarantine and to protect the livestock industry of this state from disease and prevent the spread of disease;
- I. adopt and promulgate rules for meat inspection, including the slaughter and disposition of the carcasses of livestock affected with diseases when the action appears necessary to prevent the spread of any contagion or infection among livestock;
- J. adopt and promulgate rules governing the importation, manufacture, sale, distribution or use within the state of serums, vaccine and other biologicals intended for diagnostic or therapeutic uses with livestock and regulate the importation, manufacture or use of virulent blood or living virus of any diseases affecting livestock;
- K. set fees or charges, not to exceed one hundred dollars (\$100) per call, for any services rendered by the board or its employees that are deemed necessary by the board and for which no fee has been set by statute;
- L. consider the views of the livestock industry in the administration of The Livestock Code;
- M. adopt and promulgate rules to otherwise carry out the purposes of The Livestock Code;
- N. hold hearings and subpoena witnesses for the purpose of investigating or enforcing The Livestock Code or rules established pursuant to that code; and
- O. enter into joint powers agreements with Indian nations, tribes or pueblos to promote cooperation in carrying out the provisions of The Livestock Code

**77-2-7.1 Brands; subject to change in ownership; fees for transfer.**

Brands recorded in accordance with the provisions of Section 77-9-10 NMSA 1978 [77-2-7.4 NMSA 1978] are personal property of the person in whose name they are recorded. Ownership may be transferred in the same manner as other personal property. The fee for recording a transfer of ownership with the director of the New Mexico livestock board shall be a sum fixed by the board not to exceed the amount prescribed by law.

**77-2-7.2 Registration of brands and marks; board.**

Except as otherwise authorized by the board, the board is the sole authority for the registration of brands, marks or electronic identification on livestock in this state.

**77-2-7.3 Brand books.**

The board shall keep a suitable record of all registered brands, marks and electronic identification used for the identification of livestock in this state.

**77-2-7.4 Recording before use; recording fee; conflicting brands.**

- A. A brand shall not be used until recorded. A facsimile of the brand and a recording fee fixed by the board shall be forwarded to the director. One certified copy of the recorded brand shall be furnished to the owner of the brand by the director when the brand is recorded.
- B. The director shall immediately record the brand unless it has been recorded previously or conflicts with a prior recorded brand. In that event, the director shall return the facsimile unrecorded and charge a fee for the research.
- C. Additional certified copies of brands recorded may be obtained from the director by the payment of a fee to be fixed by the board in a sum not to exceed the amount prescribed by law.

**77-2-7.5 Fees; disposition.**

The fees for recording or researching brands and for furnishing certified copies of

the recording or research shall be placed to the credit of the New Mexico livestock board interim receipts and disbursements fund.

**77-2-7.6 Brand book.**

The director shall publish a brand book in which shall be given a facsimile or copy of all brands recorded in the office of the board, together with the owner's name and address. The board may publish if it deems best to do so a limited number of brand books in addition to the number required by the provisions of this section and to sell them for such price as the board considers reasonable and proper. The price shall not be less than the actual cost.

**77-2-7.7 More than one brand unlawful; exceptions; penalty.**

A. It is unlawful for an owner of livestock in originally marking or branding livestock to make use of or keep up more than one mark or brand; provided that an owner may own and possess livestock in different marks or brands if they were acquired by him by purchase or other lawful manner and evidenced by a bill of sale from the previous owner of the livestock having such brands or from the heirs, executors, administrators or legal representatives of the owner. Livestock so acquired shall be branded or marked as provided in The Livestock Code [Chapter 77, Articles 2 through 18 NMSA 1978] by and with the recorded brand or mark of the person acquiring the livestock. It is lawful for the purpose of identification during the pendency of a mortgage or lien to brand the increase of the branded livestock in the recorded brand designated in the mortgage or lien.

B. A brand shall not be altered by placing another brand on it or in the same location.

C. A person who unlawfully brands livestock contrary to the provisions of The Livestock Code is guilty of a misdemeanor and upon conviction shall be punished in accordance with the provisions of Section 31-19-1 NMSA 1978 for each offense.

**77-2-7.8 Brands of minors.**

Minors owning livestock separate from that of the parent or guardian may have a mark or brand, which shall be recorded in accordance with the requirement of The Livestock Code [Chapter 77, Articles 2 to 18 NMSA 1978], but the parent or

guardian shall be responsible for the proper use of the mark or brand by any minor.

**77-2-7.9 Filing of facsimile; designation of brands; holding brand renewal and fee; branding increase; offenses; penalty. (Repealed effective July 1, 2006.)**

An owner of livestock desiring to use in branding a brand not already recorded in the office of the board shall file with the director a facsimile of the desired brand. The owner may record the desired brands as holding brands upon livestock so owned upon furnishing to the director a full description as to the number, class and locality of all livestock branded with the holding brand. A recorded holding brand may be used also on a show animal. A fee shall be charged for the recording of a holding brand, which recording shall be valid for a period of one year or until the described livestock depart the state, whichever comes first. The recording may be renewed for additional years by the payment of a fee at each yearly renewal; provided that it is unlawful for the owner to brand the increase of such livestock in any other brand than the recorded brand of the owner except in the case of mortgaged livestock as provided in Section 77-9-14 NMSA 1978, as recompiled [77-2-7.7 NMSA 1978]. A person who violates the provisions of this section is guilty of a misdemeanor and upon conviction shall be sentenced in accordance with the provisions of Section 31-19-1 NMSA 1978 for each offense.

**77-2-7.10 Brands; board may reject.**

The board shall have the power to reject any brand offered for record under the provisions of Section 77-9-16 NMSA 1978 [77-2-7.9 NMSA 1978] when upon satisfactory evidence it is shown to the board that the same is offered for or is of such character that may be used for malicious or deceptive purposes or is not in conformity with the provisions of Section 77-9-16 NMSA 1978 [77-2-7.9 NMSA 1978].

**77-2-7.11 Brand; priority of right to.**

The time of record of any brand by the owner in the county wherein the brand was originally recorded before the creation of the board shall determine the priority of right and property in the brand and not the time of filing with the board, provided the brand has been continuously used from the date of original record.

**77-2-7.12 Re-recording of brands; notice; publication; fees.**

A. The board shall cause all brands now on record to be re-recorded whenever the board deems necessary to clear records of unused brands. For this purpose, the board shall mail a notice, addressed to each owner of a brand now of record with the board at the current address shown on the brand record, requiring the owners of brands to file with the director any brand being on record to the owners. In addition to this notice, the board shall publish in either English or Spanish or both in at least one newspaper in each county in this state where there is a newspaper a copy of the notice to re-record. The publication shall continue for at least four consecutive weeks.

B. Within three months from the date of the first publication of the notice to re-record, owners of brands of record in the office of the board shall file with the director the brands in actual use and recorded by them and pay the re-recording fee. The fees shall be deposited in the proper fund of the board. Re-recording shall not be required more often than once in a three-year period.

**77-2-8 Research and promotion of meat and meat products.**

The board may enter into contracts for research into and promotion of meat and meat products. The contracts shall carry provisions for financing, and the board may accept and expend voluntary contributions from any source to finance the contracts. The provisions of this section shall not apply to or include cattle coming out of feed lots.

**§ 77-2-9. Reports of inspectors; prosecution of violations of livestock laws**

A. The board shall keep reports of its veterinarians and inspectors in accordance with the Public Records Act [Chapter 14, Article 3 NMSA 1978].

B. The board shall assist in the prosecution of persons charged with the violation of the livestock laws, including criminal laws relating to livestock, and may call upon a livestock inspector or other peace officer to execute its orders, and when it does, the peace officer shall obey the order of the board.

C. Livestock inspectors may arrest persons found in the act or whom they have probable cause to believe to be guilty of driving, holding or slaughtering stolen

livestock; of violating the inspection laws of the state; or of violating any provision of Chapter 30, Article 18 NMSA 1978 relating to livestock or other criminal law relating to livestock.

**77-2-12 Executive director; duties, oath and bond.**

The executive director of the board shall keep records of inspections of brands and earmarks as deemed necessary by the board and shall perform such other duties as are prescribed by the board. He shall take and subscribe an oath faithfully to perform all of his duties as executive director of the board and shall enter into bond in an amount to be fixed by the board, with good and sufficient sureties, to be approved by the board, conditioned for the faithful performance of his duties.

**77-2-13 Records; certified copy evidence.**

The records required to be kept by the director, including inspector reports, shall be maintained by the board in a readily available manner, and a certified copy of any such records under the hand and seal of the director or the verified oath of an inspector shall be prima facie evidence in all courts of this state of the truth of any fact required to be recorded therein.

**77-2-14 Attorney; duties.**

The board may employ a competent attorney to give advice and counsel in regard to any matter connected with the duties of the board, to represent the board in any legal proceedings and to aid in the enforcement of the laws in relation to livestock. The board shall fix the compensation to be paid to such attorney.

**77-2-15 Special taxes; levy; collection.**

A. Each year the board of county commissioners of each county shall at its first meeting after the return of the assessment of the property for taxation by the county assessors of each county, levy a special tax at a rate to be fixed each year by the New Mexico livestock board. Subject to the provisions of Section 7-37-7.1 NMSA 1978, the New Mexico livestock board shall, in each year, order the levy of a tax on livestock at a rate not to exceed ten dollars (\$10.00) on each one

thousand dollars (\$1,000) of net taxable value, as that term is defined in the Property Tax Code [Chapter 7, Article 35 to 38 NMSA 1978], of the livestock. The New Mexico livestock board may set different rates for individual classes of livestock.

B. The order imposing the levy of the tax shall be made on or before June 30 in each year and shall be certified to the department of finance and administration by the director. The department of finance and administration shall certify the amount of the levy to the board of county commissioners of each county, and the board of county commissioners shall include the levy in its annual levy of taxes. The special tax shall be collected in each county and paid to the state treasurer in the manner provided by law for the collection and payment of other state taxes. Such funds shall be remitted to the New Mexico livestock board for deposit in the interim receipts and disbursements fund.

#### **77-2-16 Financial report and tax estimate; state levy; maximum rate.**

It is the duty of the board on or before June 30 of each year to make and file with the department of finance and administration a report and estimate showing the amount of money in the custody or under the control of the treasurer of the board, the estimated receipts from all sources and the actual and estimated expenditures for the current fiscal year. The department of finance and administration shall annually, at the time and in the manner of certifying rates under the Property Tax Code [Chapter 7, Articles 35 to 38 NMSA 1978], certify a rate and impose a levy upon all cattle, horses, mules, asses, sheep, goats and buffalo in every county in the state, provided that such levy shall not exceed the amount required by operation of the rate limitation provisions of Section 7-37-7.1 NMSA 1978.

#### **77-2-17 Payment of tax collections to state treasurer; disbursement.**

The special tax provided by Section 77-2-16 NMSA 1978 shall be assessed and collected in every county and paid over to the state treasurer as provided by law for the assessment, collection and payment of other state taxes, and all money so collected and paid over on account of such special tax levies shall be transferred each month to the board for deposit in the interim receipts and disbursements fund and shall be used for fees, salaries, wages, costs and expenses as provided for by laws relating to the powers, duties and expenditures of the board.

**77-2-18 Compensation of employees.**

The compensation of all employees by or under the board and, in the first instance, all other expenses incurred by or under that board shall be paid by the board or, upon its order, out of the funds provided for in The Livestock Code [Chapter 77, Articles 2 to 18 NMSA 1978], such board taking or causing to be taken proper vouchers for all money so expended by them.

**77-2-19 Limitation on expenditures.**

The amount of money to be expended by the board in any one year, is limited to the amount set forth in a budget approved by the department of finance and administration.

**77-2-21 Fees.**

All fees and charges collected pursuant to the provisions of The Livestock Code [Chapter 77, Articles 2 to 18 NMSA 1978] shall be paid to the executive director of the board to be deposited in the New Mexico livestock board general fund, hereby created. All fees and charges deposited in the New Mexico livestock board general fund may be expended in accordance with a budget approved by the department of finance and administration.

**77-2-22 Penalty for violating rule.**

Any person who violates a rule adopted under the power granted to the board unless the penalty has been fixed by law is guilty of a misdemeanor and upon conviction shall be sentenced in accordance with the provisions of Section 31-19-1 NMSA 1978.

**77-2-25 Interim receipts and disbursements fund created. (Repealed effective July 1, 2006.)**

There is created the "interim receipts and disbursements fund". All money received by the board from tax levies authorized by this article shall be credited to this fund and deposited in a designated bank in the name of the board. Money shall be disbursed from this fund only upon a warrant issued by the executive director in the name of the board. Disbursements may be made to pay necessary expenses and obligations of the board, which include expenses for salaries, supplies, equipment, rent on office space or other goods and services in accordance with a budget approved by the department of finance and administration. The board shall prescribe any additional administrative procedure necessary to administer this fund.

**77-2-26 Board not to be assessed for general administrative overhead.**

No appropriation for the board shall include an item for general administrative overhead. No charge for general administrative overhead shall be assessed against or appropriated out of the interim receipts and disbursement fund or from any other fund or money administered by the board. No fees or money collected by the board shall be subject to assessment for any charge for general administrative overhead.

**77-2-28 Termination of board life; delayed repeal.**

The New Mexico livestock board is terminated July 1, 2005 unless continued by the legislature pursuant to the Sunset Act [12-9-11 to 12-9-21 NMSA 1978]. The board shall continue to operate according to all of the provisions of Chapter 77, Article 2 NMSA 1978 until July 1, 2006 for the purpose of winding up its affairs. Effective July 1, 2006, Chapter 77, Article 2 NMSA 1978 is repealed.

**77-2-29 Fees.**

The following fees shall be fixed by the board for services rendered pursuant to the provisions of The Livestock Code [Chapter 77, Articles 2 through 18 NMSA 1978]:

A. an inspection or permit fee not to exceed sixteen cents (\$.16) per head to be charged for the importation or exportation of sheep and goats pursuant to Section 77-8-3 NMSA 1978 and a service charge in an amount not to exceed ten dollars

(\$10.00) for each inspection request; provided that the board shall not increase the fee more than four cents (\$.04) in any one fiscal year;

B. a fee for recording a transfer of a brand pursuant to Section 77-9-7 NMSA 1978, as recompiled [77-2-7.1 NMSA 1978], in an amount not to exceed fifty dollars (\$50.00);

C. a fee for recording a brand or researching a brand pursuant to Section 77-9-10 NMSA 1978, as recompiled [77-2-7.4 NMSA 1978], in an amount not to exceed fifty dollars (\$50.00);

D. a fee for additional copies of certified copies of brands pursuant to Section 77-9-10 NMSA 1978, as recompiled [77-2-7.4 NMSA 1978], in an amount not to exceed five dollars (\$5.00) per copy;

E. a fee for the recording of a holding brand pursuant to Section 77-9-16 NMSA 1978, as recompiled [77-2-7.9 NMSA 1978], in an amount not to exceed one hundred dollars (\$100), which recording shall be valid for one year from the date of recording, and an additional fee in an amount not to exceed one hundred dollars (\$100) for each annual renewal;

F. a fee for the rerecording of brands pursuant to Section 77-9-20 NMSA 1978, as recompiled [77-2-7.12 NMSA 1978], in an amount not to exceed fifty dollars (\$50.00);

G. a fee for the inspection of livestock pursuant to Section 77-9-38 or 77-10-4 NMSA 1978 in an amount not to exceed fifty cents (\$.50) per head and a service charge in an amount not to exceed ten dollars (\$10.00) for each inspection request; provided that the board may not increase the inspection fee more than ten cents (\$.10) in any one fiscal year;

H. a fee for the inspection of hides pursuant to Section 77-9-54 NMSA 1978 in an amount not to exceed fifty cents (\$.50) per hide and a service charge in an amount not to exceed ten dollars (\$10.00) for each inspection request; provided that the board may not increase the inspection fee more than ten cents (\$.10) in any one fiscal year;

I. a fee for the handling of the proceeds of the sale of an estray pursuant to Section 77-13-6 NMSA 1978 in an amount not to exceed ten dollars (\$10.00);

J. a fee for the impoundment of trespass livestock pursuant to Section 77-14-36 NMSA 1978 in an amount not to exceed ten dollars (\$10.00) per head per day and a reasonable charge for the moving of trespass livestock pursuant to Section 77-14-36 NMSA 1978 to be set by the board;

K. a fee for the licensing of a livestock auction market pursuant to Section 77-10-2 NMSA 1978 in an amount not to exceed twenty-five dollars (\$25.00);

L. a fee for issuing a transportation permit pursuant to Section 77-9-42 NMSA 1978 in an amount not to exceed fifty dollars (\$50.00);

M. a fee for the licensing of a cattle or sheep rest station pursuant to Section 77-9A-2 NMSA 1978 in an amount not to exceed twenty-five dollars (\$25.00); and

N. a fee for issuing a certificate of brand exemption pursuant to Section 77-8-22 or Section 77-9-3 NMSA 1978 in an amount not to exceed fifty dollars (\$50.00).

**CHAPTER 77. Livestock Code**  
**ARTICLE 9. Brands, Ownership, Transportation and Sale of**  
**Animals**

**77-9-1.1 Definition.**

As used in Chapter 77, Article 9 NMSA 1978, "livestock" means horses, asses, mules, cattle or bison.

**77-9-2 [Earmarks; cutting; penalty.]**

Any person, firm or corporation of this state may adopt and use an earmark, and such earmark shall be taken in evidence in connection with owner's recorded brand in all suits at law or in equity in which the title to stock is involved. Such earmark shall be made by cutting and shaping the ear or ears of the animal so marked, but in no case shall the person so marking the animal cut off more than one-half of the ear so marked, neither shall anyone mark by cutting an ear on both sides to a point. Any person, firm or corporation who violates this section shall be guilty of a petty misdemeanor.

**77-9-3 Necessity of brand; rebranding required; exceptions.**

A. A person who owns livestock shall have and adopt a brand for them. The brand shall be applied with a hot iron on each animal except registered livestock that are properly identified by a legible tattoo and whose owner has been issued a certificate of brand exemption for his herd by the board. Each brand shall be recorded in the office of the board.

B. Unbranded livestock, except offspring with a branded mother or offspring with a mother properly identified as provided in Subsection F of this section, shall be subject to seizure by a peace officer or livestock inspector and shall be handled and disposed of in the same manner as is provided for the handling and disposal of estrays.

C. Livestock that is purchased shall be rebranded by the new owner with his recorded brand within thirty days, except as provided in Section 77-9-4 NMSA 1978.

D. Subsection A of this section shall not apply to a person owning horses, mules or asses who has been issued a transportation permit as provided in Section 77-9-42 NMSA 1978 or who has a registration certificate for an animal from a recognized breed association or to any person owning horses, mules or asses that have been identified by a freeze mark or a freeze brand recorded with the board. Freeze branding or freeze mark identification requires an iron, first submerged in a bath of liquid nitrogen, to be applied on each animal, resulting in a permanent loss of color in the hair or cessation of hair growth where the brand or mark has been applied.

E. This section does not apply to bison.

F. This section does not apply to a person who owns cattle in confinement at a dairy or feedlot and who has elected to identify his cattle by an alternative means approved by the board for cattle held in those facilities. If cattle held in confinement and identified in accordance with this subsection are removed from confinement and otherwise held in the state, the provisions of Subsection A of this section shall be met prior to removal, unless the cattle are being delivered to an approved auction.

**77-9-4 Penalty for failure to brand or rebrand; certain sales prohibited.**

A. All livestock required to be branded pursuant to the provisions of Section 77-9-3 NMSA 1978 shall bear the identical and complete brand recorded in the name of the present owner with the board or, in the alternative, the livestock shall bear the identical and complete brand of a former owner as recorded with the board, in which case, the livestock shall be accompanied by a bill of sale from the former owner to the person claiming to be the present owner, which bill of sale meets the requirements of Section 77-9-22 NMSA 1978.

B. The bill of sale shall contain a written statement by the former owner granting permission to the present owner to use the recorded brand appearing on the livestock, listed in the bill of sale and filed with the board; otherwise the livestock shall be rebranded within thirty days from the date of purchase.

C. A person shall not sell, buy or receive any livestock in the state unless the livestock is branded or has other means of identification acceptable to the board except livestock directly imported from another state. Except as provided in Section 77-9-16 NMSA 1978, as recompiled [77-2-7.9 NMSA 1978], all livestock shall be branded with a New Mexico brand within thirty days of entry into the state.

D. A person who violates the provisions of either Section 77-9-3 NMSA 1978 or this section is guilty of a misdemeanor and upon conviction shall be sentenced in accordance with Section 31-19-1 NMSA 1978 for each head.

**77-9-5 Brands of livestock; recording; evidence of ownership.**

No brands of livestock except those recorded pursuant to the provisions of The Livestock Code [Chapter 77, Articles 2 through 18 NMSA 1978] and are peeled shall be recognized in law as evidence of ownership of the livestock upon which the brand is used unless the owner has other means of identification, including freeze brands and freeze mark identification, that is recognized as evidence of ownership for horses, mules or asses.

**77-9-21 Bills of sale; necessity and presumptions; definition of livestock.**

A. No person shall buy, receive, sell, dispose of or have in his possession any livestock in this state unless the person selling or disposing of such livestock gives and the person buying or receiving such livestock takes a written bill of sale giving the number, kind, marks and brand of each animal sold which meets the requirements of Section 77-9-22 NMSA 1978.

B. The possession of livestock without having a written bill of sale meeting the requirements of Section 77-9-22 NMSA 1978 is prima facie evidence of illegal possession against any person charged with theft, unlawful possession, handling, driving or killing any livestock.

**77-9-22 Bills of sale; requirements; evidence of larceny.**

A. A duly executed bill of sale is an instrument in writing by which the owner or his authorized agent transfers to the buyer the title to livestock described in the bill of sale and guarantees to defend the title against all lawful claims. It shall fully describe in detail the livestock, and such description shall include marks, brands and all other identification.

B. The bill of sale shall be executed the day of the transaction.

C. A purchase sheet properly executed by a licensed livestock auction market constitutes a valid bill of sale.

D. A registration certificate issued by a recognized pure-bred association, properly identifying the animal and properly acknowledged by the secretary of the association, may be used as proof of ownership.

E. An inspection certificate executed as a bill of sale and certified by an inspector may be used as proof of ownership.

F. The possession by any person of livestock having a brand not his recorded brand unless he has a bill of sale or authority in writing to possess or sell the livestock shall be taken as prima facie evidence that he committed larceny of the livestock except in instances where stray or injured animals are inadvertently impounded and shall be sufficient for his conviction of larceny unless the evidence shows his innocence.

**77-9-23 Bill of sale of livestock; duty to exhibit; violation; penalty.**

A. A person who has purchased or received or has in his possession any livestock either for himself or another shall exhibit the bill of sale for the livestock at the reasonable request of an inspector or other peace officer. A person who fails to produce the bill of sale required in Section 77-9-21 NMSA 1978 or who is unable to exhibit other written evidence of ownership or legal possession is guilty of a misdemeanor and shall be sentenced in accordance with the provisions of Section 31-19-1 NMSA 1978.

B. A person who has purchased or received or has in his possession any livestock either for himself or another and who cannot produce proof of ownership as required by Subsection A of this section shall have the livestock impounded. If sufficient proof of ownership has not been established to the satisfaction of the board within fifteen days of the impoundment, the impounded livestock will be handled and disposed of in the same manner as provided for the handling and disposal of estrays.

**77-9-24 [Failure to exhibit; knowledge, intent, purpose and motive to be presumed.]**

The provisions of the last two sections shall be liberally construed in favor of the people, and in order to convict of any offense made punishable in said sections it shall not be necessary for the prosecution to prove knowledge, intent, purpose or motive on the part of the accused, but such knowledge, intent, purpose and motive may be presumed when the wrongful act of the accused has been shown, and shall justify a conviction, unless the testimony in the case shall satisfactorily show the good faith and innocent purpose of the accused.

**77-9-26 Sale by person not brand owner; bill of sale.**

A person in this state who sells, transfers or delivers to another person in this state any livestock that is not branded or marked with the brand or mark of the person selling, transferring or delivering the livestock shall deliver to the person buying or receiving the livestock a bill of sale showing from whom the livestock was received as provided in Section 77-9-22 NMSA 1978.

**77-9-27 Violation; penalty.**

A person who violates the provisions of Section 77-9-26 NMSA 1978 is guilty of a misdemeanor and upon conviction shall be sentenced in accordance with the provisions of Section 31-19-1 NMSA 1978 for each head in offense.

**77-9-28 Importation of livestock; permit required; penalty.**

A. A person who brings livestock into this state by any manner or causing them to

be brought in shall, before doing so, obtain a permit from the board or its authorized representative. The permit shall contain a list of all the requirements of the board to be complied with before the livestock can be brought into the state and shall also stipulate any requirements of further tests of the livestock for disease after the livestock are within the state if required by the board. The permit shall accompany the livestock at the time they enter the state, and the requirements set forth in the permit as to tests for diseases or otherwise shall be complied with in every particular before the livestock are permitted to enter. The owner or his agent shall make application to the proper inspector to inspect the imported livestock. The imported livestock shall not be commingled or released to pasture without inspection, except as authorized by the inspector.

B. No prior permits are required for livestock transported directly to international import receiving facilities that are inspected for health of livestock contained in the facilities by the United States department of agriculture or other agency of the United States. Livestock entering at these facilities from a foreign country shall be inspected by an inspector.

C. A person who violates the provisions of this section is guilty of a misdemeanor and upon conviction shall be punished in accordance with the provisions of Section 31-19-1 NMSA 1978 for each head in offense.

#### **77-9-29 Inspection rules.**

In the exercise of the powers and performance of the duties conferred and prescribed by Sections 77-9-30 through 77-9-36 NMSA 1978, the board shall make all necessary rules respecting the inspection of livestock intended for shipment or to be driven from a district or beyond the limits of this state and also respecting the inspection of hides and slaughterhouses in this state.

#### **77-9-30 Exported livestock; inspection of brands and ear marks; record.**

The board shall cause the brands and ear marks upon livestock shipped or driven from a district or out of this state to be inspected and a true and correct record of the result of such inspections to be kept in the office of the director for three years. The record shall set forth the date of the inspection; the place where and the person by whom made; the name and current address of the owner, shipper or claimant of the livestock inspected or the names and current addresses of all persons in charge of the livestock at the time of the

inspection; the destination of the livestock; a list of all brands and ear marks upon the livestock inspected; and the number and classification of the livestock.

**77-9-31 Export livestock to be inspected; penalties.**

A. A person shipping or driving or receiving for shipment or driving any livestock from a district or out of this state shall hold the livestock for inspection as provided by law, and it is unlawful for any person to ship, drive or in any manner remove beyond the boundaries of the district or this state any livestock until they have been inspected except as provided in Section 77-9- 42 NMSA 1978.

B. A person who knowingly ships, drives or receives for shipment or driving livestock from one district to another without an inspection is guilty of a misdemeanor and upon conviction shall be sentenced in accordance with the provisions of Section 31-19-1 NMSA 1978.

C. A person who knowingly ships or drives or receives for shipment or driving livestock out of state without an inspection is guilty of a fourth degree felony and upon conviction shall be sentenced in accordance with the provisions of Section 31-18-15 NMSA 1978.

**77-9-32 Inspection of livestock for export; application; place; payment for delay.**

A person or his agent having in his charge livestock destined for transportation or to be driven beyond the limits of the district or out of this state shall make application to the proper inspector to inspect the livestock, stating in the application the time the livestock will be ready for inspection. An inspector shall inspect the livestock at a location to be designated by the board, make the record and give the certificate required by law to the owner of the livestock; provided that in the case of livestock transported out of this state, the place of inspection shall be at some stockyards or other convenient place near the proposed point of shipment of the livestock from the state. If the owner or person in charge of the livestock causes any unreasonable delay or loss of time to an inspector, the owner or person in charge of the livestock shall pay the expenses and salary of the inspector during the delay or loss of time.

**77-9-33. Inspection of exported livestock; report; inspection of slaughterhouses; penalty**

Every inspector shall be an inspector of brands and ear marks and also an inspector of hides and slaughterhouses, and it is the duty of the inspectors to inspect the brands and ear marks of all livestock transported or driven from a district or out of this state and to make a sworn report to the director of the result of such inspection at least once every thirty days and more often if, in the opinion of the board, it is necessary. Every slaughterhouse in this state shall be carefully inspected by the inspectors, and all hides found in slaughterhouses shall be carefully compared with the records of the slaughterhouses and a report in writing setting forth the number of livestock killed at the slaughterhouse since the last inspection, the names of the persons for whom each of the livestock were slaughtered, the brands and marks upon each hide and any information that may be obtained touching the violation by the owner of any slaughterhouse, or any other person, of any of the provisions of Sections 77-17-9 and 77-17-10 NMSA 1978. For the purpose of making an inspection, an inspector has the right to enter in the day or night any slaughterhouse or other place where livestock are killed in this state and to carefully examine the premises and all books and records required by law to be kept on the premises and to compare the hides found with the records. A person who hinders or obstructs or attempts to hinder or obstruct an inspector in the performance of any of the duties required of him by law is guilty of a misdemeanor and on conviction shall be sentenced in accordance with the provisions of Section 31-19-1 NMSA 1978 for each offense.

**77-9-35 Offense by inspectors; penalty.**

Any inspector employed by the board who knowingly makes any false certificate or who knowingly swears falsely as to the truth of any report made by him to the executive director of the board or who accepts any bribe or compensation for the performance or failure to perform any of the duties prescribed by law, except such compensation as may be paid him by the board, shall upon conviction thereof be fined in any sum not exceeding one thousand dollars (\$1,000) or imprisoned in the state penitentiary not exceeding five years at the discretion of the court.

**77-9-38 Inspection fees; lien; record.**

There shall be a fee for the inspection of livestock to be fixed by the board not to

exceed the amount prescribed by law for each inspection request, and the fee shall be a lien upon the livestock of the owner until paid. Each inspector shall keep a complete record of all livestock inspected by him, listing all brands and marks and the names of the shippers, and a copy of the record shall be preserved by the board.

**77-9-40 Exporting of livestock without brand of shipper or bill of sale; inspection; definition of estrays.**

A. For the purposes of this section, an estray is any livestock being driven or shipped from a district or from this state that is not properly identified as required by The Livestock Code [Chapter 77, Articles 2 through 18 NMSA 1978]; or not accompanied by a duly executed authority in writing by the owner of the recorded brand on the livestock authorizing the driving and handling of the livestock by the person in possession of the livestock.

B. If an inspector finds in or with the livestock he is inspecting an estray, he may seize and sequester the estray and hold and dispose of it in the manner provided by law for the disposition of unclaimed livestock by inspectors.

**77-9-41 Transportation of horses, mules, asses, cattle, sheep or goats or carcasses thereof; inspection certificate.**

It shall be unlawful for any person, firm or corporation to move, transport or cause to be transported from the state of New Mexico to any point beyond the limits thereof or within the state except as provided under Section 77-9-42 NMSA 1978, any horses, mules, asses, cattle, sheep or goats, or the carcasses thereof, by driving or in any motor or other vehicle or conveyance, unless such animal, animals or carcasses shall first have been inspected by an inspector of the New Mexico livestock board and unless, upon satisfactory showing of the ownership of said animals or carcasses, said inspector shall have issued inspection certificates in the form to be prescribed by the New Mexico livestock board and unless such certificate shall at all times accompany the animals or carcasses so being driven or transported in such motor or other vehicle; provided that no inspection shall be required where the transportation or movement from one point to another within the state is entirely upon lands exclusively within the control of the party moving or transporting or procuring the transporting of such animals or carcasses or is

done under the provisions of Section 77-9-42 NMSA 1978 or when such transportation is authorized by the board to a location within the state.

**77-9-42 Transportation permits for horses, mules and asses; brand and health certificate good for length of time of ownership.**

A. A person who owns horses, mules or asses and desires to transport them within the state for a purpose other than their sale or trade may, upon request to an inspector, be issued an owner's transportation permit in lieu of the required brand certificate for each horse, mule or ass to be transported.

B. The owner's transportation permit issued in lieu of a brand certificate is valid as long as the horse, mule or ass described in the certificate remains under the ownership of the person to whom the permit was issued.

C. The owner's transportation permit or the brand certificate shall accompany the animal for which it was issued at all times while the animal is in transit, and each shall identify the horse, mule or ass by brand, color, markings, sex, age and, where applicable, by registration number, tattoo or other mark as provided by rules of the board.

D. There shall be a fee in an amount set by the board for each owner's transportation permit.

**77-9-43 Notice of transport; inspection date and place.**

Before a person transports any livestock or carcasses from a district or out of state, the person shall notify the nearest inspector that it is desired that the livestock or carcasses be inspected, fixing the date, place and time of the inspection. The person requesting the inspection shall give a reasonable time prior to the proposed shipment date.

**77-9-44 Hides and pelts; exhibiting, tagging and marking.**

The hides or pelts from all carcasses shall be exhibited to the inspector at the time of the inspection required under Sections 77-9-41 and 77-9-43 NMSA 1978, and the inspector, in addition to furnishing the certificate provided for in Section 77-9-

41 NMSA 1978, shall tag or mark the carcasses and hides or pelts in a manner to be designated by the board as evidence that the hides or pelts have been inspected.

**77-9-45 Ownership; possession; transportation; seizure; disposition of livestock; refusal of certificate.**

If any duly authorized inspector should find any livestock or carcasses in the possession of any person, firm or corporation for use, sale or transporting by any means, and said person, firm or corporation in charge of said livestock or carcasses is not in possession of a bill of sale, duly acknowledged, or cannot furnish other satisfactory proof of lawful ownership or said inspector has good reason to believe that said livestock or carcasses, are stolen, said inspector shall refuse to issue a certificate authorizing the transportation of said livestock or carcasses, and shall seize and take possession of same.

**77-9-46 [Officers may stop vehicles; failure to have certificate; arrest and seizure.]**

Any duly authorized inspector or peace officer of any county in said state shall be authorized to stop any motor or other vehicle transporting livestock or the carcasses thereof in their respective counties, and demand from the person or persons operating said motor or other vehicle to show the certificate provided for and issued under the terms of Section 1 [77-9-41 NMSA 1978] of this act; and should any person or persons transporting said livestock or the carcasses thereof be unable to exhibit to such inspector or peace officer said certificate, said inspector or officer is authorized and empowered to arrest, without warrant, any person or persons operating said motor or other vehicle and take possession of same and the livestock or carcasses therein, and shall retain such possession until the person or persons operating such motor or other vehicle can produce satisfactory evidence that he or they, or the person or persons, firm or corporation for whom the same is being transported, is the lawful owner thereof, or until such livestock or carcasses are disposed of as hereinafter provided.

**77-9-49 Penalty.**

Any person, firm or corporation violating any provision of Sections 77-9- 41 through 77-9-50 NMSA 1978 is guilty of a misdemeanor and shall be punished as prescribed by law.

**77-9-51 [Suspected transportation of stolen livestock; search of vehicles; requiring proof of ownership; arrest; seizure.]**

Any duly authorized inspector or peace officer of any county in this state is hereby authorized to stop and search, without warrant, any motor or other vehicle which they may have reason to believe is transporting stolen livestock or the carcasses thereof, in their respective counties, and if any be found, demand from the person or persons operating said motor or other vehicle, that they produce proof of ownership, and should any person or persons transporting said livestock or the carcasses thereof be unable to produce proof of ownership to such inspector or peace officer, said inspector or officer is hereby authorized and empowered to arrest, without warrant, any person or persons operating said motor or other vehicle and take possession of the same and the livestock or carcasses therein, and shall retain such possession until the person or persons operating such motor or other vehicle can produce satisfactory evidence that he or they, or the person or persons, firm or corporation for whom the same is being transported, is the lawful owner of such livestock or the carcasses, or until such livestock or carcasses are disposed of as hereinafter provided.

**77-9-54 Transportation of hides.**

A. It is unlawful for any person to transport or cause to be transported from a district or out of this state any hides that have not been inspected by an inspector and tagged or marked as prescribed by rule of the board. The board may provide by rule for collection of an inspection fee not to exceed the amount prescribed by law, and the fee is a lien upon the hides inspected until paid.

B. Each inspector shall keep a complete record of all inspections made by him and immediately forward to the director on blanks furnished him for that purpose, a complete report of each inspection, giving the names of the purchaser and shipper of the hides and all the brands on the hides. The report shall be preserved by the director as records of his office.

**77-9-55 [Inspection of hides; butchers; offenses; penalty.]**

Any person, firm or corporation, common carrier, railroad company or agent thereof, violating any of the provisions of Sections 77-9-54 and 25-4-1 NMSA 1978, or refusing to permit the inspection of any hides as therein provided, shall upon conviction thereof, be deemed guilty of a misdemeanor and shall be fined in any sum not exceeding one thousand dollars [(\$1,000)] for each and every such violation.

**77-9-56 Hide purchases; bill of sale; contents; penalty.**

A person in this state who purchases a hide from livestock is required to secure from the person from whom the hide is purchased, at the time of purchase, a bill of sale showing the brands and the marks, if any, on the hide. A person who violates the provisions of this section is guilty of a misdemeanor and upon conviction shall be sentenced in accordance with the provisions of Section 31-19-1 NMSA 1978 for each offense.

**Amended in 1999, 2001.**

**Reviewed by AAHS in July 2001.**

---