

2018 Regular Session

HOUSE BILL NO. 393

BY REPRESENTATIVE TERRY BROWN

ANIMALS/LIVESTOCK: Provides for the issuance and administration of market agency and livestock dealer permits

1 AN ACT

2 To amend and reenact R.S. 3:563, 564, 734(A) and (B)(1), 735, 747, 748(A), 2092(B),
3 2093(5) through (11) and to enact R.S. 3:561(6) and 2093(12) and (13), relative to
4 market agency and live stock dealer permits; to provide for permits; to provide for
5 the authority of the Louisiana Board of Animal Health; to provide for criteria to
6 deny, revoke, or suspend permits; to provide for records; to provide for inspectors;
7 to provide for prohibited activities; to provide for violations and penalties; to provide
8 for the authority of the commissioner of agriculture; and to provide for related
9 matters.

10 Be it enacted by the Legislature of Louisiana:

11 Section 1. R.S. 3:563, 564, 734(A) and (B)(1), 735, 747, 748(A), 2092(B), 2093(5)
12 through (11) are hereby amended and reenacted and R.S. 3:561(6) and 2093(12) and (13) are
13 hereby enacted to read as follows:

14 §561. Definitions

15 As used in this Part, the following terms shall have the following meanings
16 ascribed to them:

17 * * *

18 (6) "Board" means the Louisiana Board of Animal Health

19 * * *

1 §563. Dealers to obtain permit

2 A.(1) All market agencies and livestock dealers shall secure an annual permit
3 from the Louisiana Board of Animal Health for the privilege of conducting business.

4 (2) It shall be a violation of this Part to operate as a market agency or
5 livestock dealer without a permit from the Louisiana Board of Animal Health.

6 (3) The provisions of this Part shall not apply to farmers or other actual
7 producers of the livestock who offer it for sale either at public stockyards or at a
8 privately owned sales pen or concentration point.

9 B. Any person desiring to be permitted as a livestock dealer or market
10 agency shall apply for a permit annually on a form prescribed by the board.

11 C. The board shall have the power to deny, revoke, or suspend any permit
12 issued by the board or applied for in accordance with this Part for any of the
13 following reasons:

14 (1) Material misstatement in the application for original permit, or in the
15 application for any reissue of a permit pursuant to this Section.

16 (2) Violation of this Part or of a rule or order of the board.

17 (3) Allowing a permit issued pursuant to this Section to be used by an
18 unpermitted person.

19 (4) Conviction of a crime, an essential element of which is misstatement,
20 fraud, or dishonesty.

21 (5) Conviction for violating a law or regulation of another state or of the
22 United States that is materially similar to a substantive provision of this Section or
23 a rule of the board.

24 (6) Suspension or other disciplinary action taken by the secretary of the
25 United States Department of Agriculture pursuant to the Packers and Stockyards Act
26 of 1921, 7 USC 181 through 229, as amended, if it appears that the applicant or
27 permittee committed or participated in the violation covered by the disciplinary
28 action.

1 (7) Failure to possess the qualifications determined by the board to be
2 necessary or failing to meet the requirements of this Section for the issuance or
3 holding of a permit.

4 (8) Any unpaid fines, fees, or penalties issued by the board.

5 D. Proceedings for the denial, revocation, or suspension of a permit pursuant
6 to the authority of this Part shall be conducted in compliance with the board's rules,
7 regulations, and procedures and in accordance with the Administrative Procedure
8 Act.

9 E. The board may require a person against whom disciplinary action has
10 been taken to pay the reasonable costs incurred by the board for any hearing or
11 proceeding, including its legal fees and stenographer, investigator, or witness fees,
12 and any such costs and fees incurred by the board on any judicial review or appeal.

13 §564. Records of sales and purchases

14 A. Each market agency shall keep complete records of all sales and
15 purchases for each period of twelve months. The record shall consist of the name
16 and address of the seller, the number of the sales tag of the animal, the permanent
17 identification number of any brucellosis test-eligible animal, the weight and price of
18 the animal, and the name and address of the purchaser. ~~The willful noncompliance~~
19 ~~with this provision, after due notice, shall automatically revoke the permit of the~~
20 ~~operator of the market agency.~~

21 B. Each livestock dealer shall keep complete records of all sales and
22 purchases for each period of twelve months. The record shall consist of the name
23 and address of the seller, the permanent identification number of any brucellosis
24 test-eligible animal, the weight and price of the animal, and the name and address of
25 the purchaser. ~~The willful noncompliance with this provision, after due notice, shall~~
26 ~~automatically revoke the permit of the livestock dealer.~~

27 * * *

1 §734. Livestock brand inspectors

2 A. Livestock brand inspectors employed by the commissioner ~~and the~~
3 ~~director and assistant director of the commission~~ shall be commissioned by the
4 Department of Public Safety and Corrections and, for the purposes of this Part, shall
5 have the same power and authority as is vested in the state police. Inspectors shall
6 have general jurisdiction throughout the state to enforce the provisions of the
7 Louisiana Criminal Code as set forth in Paragraph (B)(1) of this Section, this Part
8 and the rules and regulations adopted ~~under~~ pursuant to the provisions of this Part.

9 B. Personnel of the commission who are commissioned peace officers shall
10 be under the direction, control, and supervision of the commissioner and shall have
11 the following powers and duties:

12 (1) To provide for the protection of the assets and property of the
13 Department of Agriculture and Forestry, ~~and to~~ enforce the provisions of the
14 Louisiana Board of Animal Health and rules adopted pursuant to Part I of Chapter
15 16 of Title 3 of the Louisiana Revised Statutes of 1950, as authorized in R.S. 3:2091,
16 to enforce all of the provisions of this Part, and the rules and regulations adopted
17 ~~under~~ pursuant to the provisions of this Part and provisions in the Louisiana Criminal
18 Code relating to the theft of animals, the illegal branding or marking of animals, the
19 disposition of strayed animals, the theft of any farm machinery, equipment, or
20 supplies, and to perform such duties with respect to any other farm-related crime.

21 * * *

22 §735. ~~Use of unrecorded brand or mark prohibited~~ Prohibited activities

23 A. No person shall use any brand or mark for branding or marking animals
24 unless the brand or mark is recorded with the commission.

25 B. No person shall intentionally offer livestock for sale without providing
26 the true and legal name of the owner of the livestock.

27 C. No person shall intentionally misrepresent the true and legal name of the
28 buyer of livestock offered for sale.

29 * * *

1 §747. Criminal penalties

2 Whoever violates the provisions of ~~R.S. 3:744, R.S. 3:745, or R.S. 3:746~~ R.S.
3 3:735, 744, 745, or 746 shall be fined not more than five thousand dollars, or
4 imprisoned with or without hard labor, for not more than ten years, or both.

5 §748. Civil penalties; injunctive relief

6 A. The commission may assess a civil penalty of not more than ~~two hundred~~
7 ~~fifty one thousand~~ dollars for each violation of the provisions of this Part or of the
8 rules and regulations adopted ~~under~~ pursuant to the provisions of this Part. Each day
9 on which a violation occurs shall be considered a separate offense.

10 * * *

11 §2092. Officers and employees

12 * * *

13 B. The board, subject to the approval of the commissioner of agriculture,
14 shall employ a director, an assistant director, and a state veterinarian, all of whom
15 shall be in the unclassified service. ~~The state veterinarian shall be the executive~~
16 ~~secretary of the board.~~ The board, subject to the approval of the commissioner of
17 agriculture, shall appoint the executive secretary of the board. The commissioner of
18 agriculture shall employ such other personnel of the board as are necessary. All
19 employees of the board shall be under the direction and supervision of the
20 commissioner of agriculture.

21 * * *

22 §2093. Powers

23 The Louisiana Board of Animal Health shall have the following powers and
24 duties:

25 * * *

26 (5) To issue market agency and livestock dealer permits in accordance with
27 R.S. 3:563.

1 ~~(5)~~ (6) To compel owners of livestock subject to regulation by the board to
2 quarantine, test, or vaccinate the livestock whenever necessary to prevent, control,
3 or eradicate any infectious disease present in the livestock.

4 ~~(6)~~ (7) To issue cease and desist orders when a violation that is endangering
5 or causing significant damage to animal health or commerce is occurring or is about
6 to occur.

7 ~~(7)~~ (8) To institute civil proceedings seeking injunctive relief to restrain and
8 prevent violations of the laws or of administrative rules administered or enforced by
9 the board.

10 ~~(8) To impose civil penalties of up to one thousand dollars for each violation~~
11 ~~of the laws and administrative rules administered and enforced by the board. Each~~
12 ~~day on which a violation occurs shall be considered a separate offense. Civil~~
13 ~~penalties shall be assessed only by a ruling of the board based on an administrative~~
14 ~~hearing conducted in accordance with the Administrative Procedure Act. The board~~
15 ~~may institute civil proceedings to enforce its rulings in the district court for the~~
16 ~~parish in which the violation occurred.~~

17 (9) To impose penalties for a violation of the laws and administrative rules
18 administered and enforced by the board as follows:

19 (a) Civil penalties of up to one thousand dollars for each violation of the
20 laws and administrative rules administered and enforced by the board. Each day a
21 violation occurs shall be considered a separate offense.

22 (b) Issuance of a public or private letter of reprimand or concern.

23 (c) Restitution of the department's costs and expenses in connection with the
24 enforcement of this Part.

25 (d) Denial, revocation, or suspension of any permit issued by the board.

26 ~~(9)~~ (10) To advise the state Department of Agriculture and Forestry, the
27 United States Department of Agriculture, and the legislature with respect to all
28 phases of the meat industry in Louisiana, including but not limited to the
29 slaughtering and processing of meat and the implementation of the Federal Meat

1 Inspection Act, the Federal Poultry Products Inspection Act, and the state meat
2 inspection program.

3 ~~(10)~~ (11) To adopt such rules and regulations as may be necessary to monitor
4 compliance with the prohibition against tampering with livestock at a public
5 livestock exhibition as set forth in R.S. 14:102.1(B)(2).

6 ~~(11)~~ (12) To adopt such rules and regulations as may be necessary to
7 establish standards governing the care and well-being of bovine, equine, ovine,
8 caprine, porcine, and poultry bred, kept, maintained, raised, or used for show, profit,
9 or for the purpose of selling or otherwise producing crops, animals, or plant or
10 animal products for market. The board shall consider the following when adopting
11 the standards:

12 (a) The health and husbandry of the bovine, equine, ovine, caprine, porcine,
13 and poultry.

14 (b) Generally accepted farm management practices.

15 (c) Generally accepted veterinary standards and practices.

16 (d) The economic impact the standards may have on bovine, equine, ovine,
17 caprine, porcine, and poultry farmers, the affected bovine, equine, ovine, caprine,
18 porcine, and poultry sectors; and consumers.

19 (13) To assess penalties pursuant to an administrative hearing conducted in
20 accordance with the Administrative Procedure Act. The board may institute civil
21 proceedings to enforce its rulings in the district court of the parish in which the
22 violation occurred.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 393 Original

2018 Regular Session

Terry Brown

Abstract: Provides for the issuance and administration of market agency and livestock dealer permits by the La. Board of Animal Health.

Present law requires market agencies, those who sell livestock on commission, to obtain a permit from the La. Board of Animal Health (board).

Proposed law requires livestock dealers to also obtain a permit from the board annually on a form prescribed by the board.

Proposed law authorizes the board to deny, revoke, or suspend any permit issued by the board for material misstatements in the permit application, allowing permit use by unpermitted persons, conviction of certain crimes, disciplinary actions by the U.S. Dept. of Agriculture (USDA), lack of qualifications, or unpaid fines or penalties issued by the board.

Proposed law specifies that the Administrative Procedure Act governs the proceedings for the denial, revocation, or suspension of a permit and authorizes the board to recover costs for disciplinary actions.

Present law requires market agencies and livestock dealers to keep certain records and provides willful failure to keep such records results in an automatic permit revocation.

Proposed law removes the automatic revocation.

Present law provides that livestock brand inspectors employed by the commissioner and the director and assistant director of the Livestock Brand Commission are commissioned as peace officers by the Dept. of Public Safety and Corrections. Proposed law removes the commission for the director and assistant director.

Proposed law adds the duty to enforce provisions and rules of the board to those peace officers so commissioned.

Present law prohibits the use of a brand not recorded with the commission. Proposed law retains present law and prohibits offering livestock for sale without providing the true owner or buyer and establishes a fine of not more than \$500 or imprisonment with or without hard labor for not more than 10 years, or both.

Present law authorizes the commission to assess a civil penalty of not more than \$250 per violation. Proposed law increases the civil penalty from not more than \$250 to not more than \$1,000.

Present law specifies that the state veterinarian is the executive secretary of board.

Proposed law removes present law and instead authorizes the board to appoint the executive secretary with approval of the commissioner of agriculture.

Present law provides the board with the following powers:

- (1) To adopt rules and regulations necessary to implement and enforce powers and duties as assigned.

- (2) To hold hearings and conduct investigations.
- (3) To issue subpoenas for witness attendance or document production for any hearing.
- (4) To issue charters and determine public livestock market sale days.
- (5) To compel livestock owners to quarantine, test, or vaccinate livestock to prevent, control, or eradicate certain infectious diseases.
- (6) To institute civil proceedings seeking injunctive relief to prevent violations of law.
- (7) To impose certain civil penalties up to \$1,000 per violation of law and provides for separate offenses.
- (8) To advise the La. Dept. of Agriculture and Forestry, USDA, and the legislature with respect to all phases of the meat industry, including the slaughtering and processing of meat.
- (9) To adopt rules and regulations to monitor compliance relative to tampering with livestock at a public exhibition.
- (10) To adopt rules and regulations to establish standards governing the well-being of bovine, ovine, caprine, porcine, and poultry bred for show or profit or for selling or for producing for market.
- (11) To issue cease and desist orders upon a violation causing significant damage to animal health.

Proposed law adds the power to issue market agency and livestock dealer permits and to assess penalties in administrative hearings.

Proposed law expands the civil penalties the board can impose to include public or private letters of reprimand or concern; restitution of the department's costs; and denial, revocation, or suspension of any permit issued by the board.

(Amends R.S. 3:563, 564, 734(A) and (B)(1), 735, 747, 748(A), 2092(B), 2093(5) through (11); Adds R.S. 3:561(6) and 2093(12) and (13))