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C.C.S.M. c. L170

## **THE LIVESTOCK AND LIVESTOCK PRODUCTS ACT**

(Assented to June 28, 1997)

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

### **Definitions**

1 In this Act,

"analyst" means a person, class of persons, organization or government appointed or designated as an analyst under section 4; (« analyste »)

"animal identification" means any form of identification that can be used to prove ownership of an animal under this Act; (« identification »)

"auditor" means a person, class of persons, organization or government appointed or designated as an auditor under section 4; (« vérificateur »)

"commercial vehicle" means a motor vehicle or trailer operated on any highway for the transportation of livestock or livestock products for gain or compensation, or by or on behalf of a person dealing in livestock or livestock products; (« véhicule commercial »)

"director" means the person appointed under The Civil Service Act as the director for the purpose of this Act; (« directeur »)

"government" means the Government of Canada, the government of a province or territory of Canada, the government of a foreign country or a political subdivision of foreign country, or a department or agency of any of them; (« gouvernement »)

"inspector" means a person or class of persons appointed or designated as an inspector under section 4; (« inspecteur »)

"livestock" means

(a) cattle, horses, sheep, swine, poultry and bees,

(b) animals of a kind raised for meat production or production of products from the animals, including breeding stock of those animals, and

(c) animals of any species prescribed in the regulations; (« animal de ferme »)

"livestock product" means

(a) any primary or processed commodity derived from livestock, including meat, raw hides, dressed poultry, eggs, wool, hair and honey, in any form, and

(b) any part of livestock including offal, fat and by-products; (« produit de la ferme »)

"minister" means the member of the Executive Council charged by the Lieutenant Governor in Council with the administration of this Act; (« ministre »)

"process" includes changing the nature, size, quality or condition of livestock or livestock products and includes the slaughter of livestock; (« transformation »)

"register of animal identification" means a register established and maintained in accordance with section 13; (« registre des identifications »)

"registrar" means the director and such other person as may be designated as a registrar under section 13; (« registraire »)

"stockyard" means any area of land at or on which livestock is sold, purchased, or traded, including any buildings, pens, fences, gates, chutes, weigh scales and other equipment situated on the land and used in connection with it, but does not include

(a) a stockyard that operates under the supervision of the Canadian Food Inspection Agency, or any successor to it or any agency of the Government of Canada that carries out any of its functions,

(b) any area of land used solely by the owner or lessee thereof for the purpose of holding a sale of livestock that have been owned by him or her for a period of not less than 30 days immediately preceding the date of the sale,

(c) any area of land used solely for the purpose of assembling livestock for shipment,

(d) any area of land used solely for the purpose of a sale

(i) of livestock held by a livestock association recognized by the director,

(ii) of livestock on behalf of members of a 4-H club, or

(iii) of livestock in an event sponsored by an agricultural society formed under The Agricultural Societies Act, or

(e) any area of land prescribed by regulation; (« parc à bétail »)

"vehicle" means a vehicle as defined in The Highway Traffic Act. (« véhicule »)

Cancellation or suspension of licence

2 The director may, at any time, cancel or suspend a licence granted under the regulations where he or she considers it in the public interest to do so, and he or she may reinstate any cancelled or suspended licence on any terms and conditions that he or she considers appropriate.

Appeal

3(1) A person whose application for a licence under the regulations is refused, or whose licence is cancelled or suspended, may appeal the refusal, cancellation or suspension by filing a notice of appeal with the minister within 30 days after the person is notified of the refusal, cancellation or suspension.

#### Appeal board

3(2) The minister shall appoint an appeal board within 30 days after a notice of appeal is filed, which is to consist of not less than three and not more than five persons to hear the appeal.

#### Chairperson

3(3) The minister shall designate one of the members of the appeal board to be its chairperson.

#### Fees and expenses

3(4) The minister may pay reasonable fees and expenses to the members of the appeal board.

#### Decision of appeal board

3(5) On concluding the appeal, the appeal board may

(a) confirm the refusal to issue or the suspension or cancellation of a licence; or

(b) direct that the application for a licence be approved or reinstate a suspended or cancelled licence.

#### Notice

3(6) The appeal board shall, in writing, promptly inform the minister and the appellant of its decision.

#### Appointment of inspectors, auditors and analysts

4(1) The minister may appoint any person as an inspector, auditor or analyst for the purpose of this Act.

#### Designation

4(2) The minister may, on such terms and conditions as the minister may specify,

(a) designate any qualified person or class of persons to act as an inspector in relation to any matter referred to in the designation; and

(b) designate any qualified person, class of persons or organization or a government to act as an auditor or analyst in relation to any matter referred to in the designation.

#### Certificate to be produced

4(3) Except in the case of a member of the Royal Canadian Mounted Police, an inspector, auditor or analyst appointed or designated under this section shall be provided with a certificate of appointment or designation and, on entering any place under this Act, shall show the certificate to the person in charge of the place if the person requests proof of the appointment or designation.

#### RCMP as inspectors

4(4) Every member of the Royal Canadian Mounted Police is an inspector under this Act and has the same powers as are conferred or imposed on an inspector under this Act and the regulations.

#### Entry and inspection

5(1) An inspector may, at any reasonable time and where reasonably required to determine compliance with this Act,

(a) enter and inspect any place, or stop any vehicle, in which the inspector believes on reasonable grounds there is any livestock or thing in respect of which this Act applies;

(b) open any receptacle, package, cage or other thing that the inspector believes on reasonable grounds contains any livestock or thing in respect of which this Act applies;

(c) require any person to present any livestock or thing for inspection in the manner and under such conditions as the inspector considers reasonably necessary to carry out the inspection;

(d) examine any livestock or thing and take samples of it;

(e) require any person to produce for inspection or copying any record or document that the inspector believes on reasonable grounds contains any information relevant to the administration of this Act;

(f) conduct any tests or analyses or take any measurements; and

(g) detain any vehicle containing livestock or livestock products whose ownership is in doubt and direct that the vehicle and the livestock or livestock products be taken to a place designated by the inspector.

#### Records

5(2) An inspector may remove any records or documents that he or she is entitled to examine or copy or otherwise reproduce but shall give a receipt to the person from whom they were taken and promptly return them on completion of the examination.

#### Seizure in execution of duties

6(1) An inspector who, in the course of an inspection, discovers an offence being committed under this Act may seize and detain any livestock or thing which the inspector believes on reasonable grounds is being used to commit the offence or which is evidence of the offence.

#### Warrant to enter and seize

6(2) A justice who is satisfied by information on oath that there are reasonable grounds to believe that

(a) an offence under this Act has been committed; and

(b) there is to be found in any place any livestock or thing that will afford evidence in respect of the commission of an offence;

may at any time issue a warrant authorizing an inspector and any other person named in the warrant to enter and search the place for the livestock or thing, and to seize and detain it.

#### Use of force

6(3) An inspector and any other person named in the warrant may use whatever force is necessary to execute the warrant and may call on a police officer for assistance in executing the warrant.

#### Search and seizure powers

6(4) An inspector who executes a warrant may seize and detain, in addition to any livestock or thing mentioned in the warrant, any livestock or thing which the inspector believes on reasonable grounds is being used to commit the offence or which is evidence of the offence.

#### Where warrant not necessary

6(5) An inspector may exercise any of the powers mentioned in subsections (2) to (4) without a warrant if the conditions for obtaining a warrant exist but, by reason of exigent circumstances, it would not be practical to obtain a warrant.

#### Storage of seized livestock or things

7(1) When an inspector seizes and detains any livestock or thing under this Act, the director may

(a) require it to be stored at the place where it was seized or remove it to any other place for storage; or

(b) require its owner or the person having the possession, care or control of it at the time of the seizure to remove it to any other place and to store it.

#### Livestock not to be moved

7(2) When an inspector has caused livestock to be detained under this Act, the livestock may not be removed from the place where it is detained until authorization to do so is given by the inspector.

#### Disposal of seized livestock or perishable things

8(1) When an inspector seizes and detains any livestock or perishable thing, the director may dispose of it, and any proceeds realized from its disposition, with interest to be paid at a rate fixed

from time to time by the Lieutenant Governor in Council, shall be held pending the outcome of the proceedings.

#### Disposal of things after proceedings

8(2) When proceedings in respect of any seized livestock or thing have been finally resolved,

(a) if the accused has been convicted, the court may order that the livestock or thing, or the proceeds of sale and accumulated interest referred to in subsection (1), be forfeited to the Crown; and

(b) if the court does not order forfeiture, the livestock or thing, or the proceeds of disposition and accumulated interest referred to in subsection (1), must be returned or paid to the person who is lawfully entitled to possess it or them.

#### Disposal of forfeited things

8(3) Any livestock or thing that has been ordered to be forfeited under clause (2)(a) shall be disposed of as directed by the director, but where there is a forfeiture of sale proceeds and accumulated interest, the money must be turned over to the Minister of Finance to be paid into the Consolidated Fund.

#### Additional duties for inspectors and others

9 The minister may by regulation prescribe additional duties to be performed by an inspector, auditor or analyst.

#### Operation of data processing system and copying equipment

10 In carrying out an inspection at any place under this Act, an inspector may

(a) use a data processing system at the place to examine any data contained in or available to the system;

(b) reproduce any record from the data in the form of a print-out or other intelligible output and take the print-out or other output for examination or copying; and

(c) use any copying equipment at the place to make copies of any record or other document.

#### Refusal to admit

11 No person being in, or having charge of, a place shall refuse or fail to admit an inspector demanding to enter in the execution of his or her duty under this Act, and no person shall obstruct or attempt to obstruct an inspector in the exercise of any of the powers granted to an inspector by this Act.

#### Livestock products on premises

12 For the purposes of any prosecution for a violation or contravention of any provision of this Act or of the regulations, proof that a livestock product was

(a) found on the business premises of a person who owns or operates a retail sales business or wholesale distribution business and who sells or offers to sell that kind of livestock product in the ordinary course of his or her business; or

(b) found in a public market in the possession of a person who is selling or offering to sell similar kinds of livestock products in the public market;

shall be, in the absence of evidence to the contrary, proof that the livestock product was for sale, whether or not that person is the owner of the livestock product.

#### Register of animal identification

13(1) The minister may cause to be kept one or more registers in which shall be recorded a full description of animal identifications registered under this act, the date of each registration and any other information that may be prescribed by regulation.

#### Designation of registrar

13(2) The minister may, on such terms and conditions as he or she may specify, designate any qualified person to act as a registrar in relation to any matter referred to in the designation.

#### Agreement regarding register

13(3) For the purposes of this section, the minister may enter into an agreement in accordance with section 24 with a qualified person or organization or a government for the establishment and maintenance of a register.

#### Application for registration of animal identification

14 A person wishing to register or renew the registration of an animal identification shall submit an application to the registrar in accordance with the regulations and pay the fee prescribed by the regulations.

#### Registration

15(1) The registrar, upon being satisfied that the application is in accordance with this Act and the regulations and that no other person has registered the same animal identification, shall register the animal identification in the name of the applicant or renew the registration, as the case may be, record the registration or renewal in the register, and issue a certificate of registration to the applicant.

#### Ownership of animal identification

15(2) Upon being issued a certificate under subsection (1), the applicant is the owner of the animal identification.

#### Registrar may impose conditions

15(3) The registrar may impose conditions on the registration or renewal of registration of an animal identification under subsection (1), in accordance with the regulations.

Registrar may cancel registration

15(4) The registrar may cancel the registration of an animal identification in accordance with the regulations.

Changes in registered animal identification

15(5) The registrar may agree to changes in a registered animal identification upon the application of the owner of the animal identification in accordance with and upon payment of the fee prescribed in the regulations.

Selection of an animal identification

16 The selection of the animal identification to be allotted to an applicant or that an applicant may register is in the discretion of the registrar.

Evidence of ownership of animal identification

17 A certificate issued under subsection 15(1) and purporting to be signed by the registrar, together with a certified copy of the register as it relates to that animal identification showing that the animal identification has not been assigned, is evidence of the ownership of the animal identification referred to in the certificate by the person named in it.

Evidence of ownership of an animal

18 The owner of any subsisting registered animal identification has the exclusive right to its use unless the animal identification has been assigned in accordance with this Act and the regulations, and the presence of that animal identification in or on livestock, together with a certified copy of the register as it relates to that animal identification showing that the animal identification has not been assigned, is evidence in any court that the livestock is the property of the owner of the animal identification.

Assignment of animal identification

19(1) The ownership of any registered animal identification, or the right to use it in relation to a particular animal, may be assigned in the manner prescribed in the regulations.

Assignment must be filed by assignee

19(2) Except as provided in the regulations, an assignment of an animal identification shall be filed with the registrar by the assignee, together with the documents and information prescribed in the regulations, and the assignee shall pay the fee prescribed by the regulations.

Registrar to issue new certificate to assignee

19(3) The registrar, upon being satisfied that the assignment is in accordance with this Act and the regulations, shall record the assignment in the register and issue a certificate of assignment to the assignee.

No assignment except in accordance with Act



19(4) No person shall assign the ownership of or right to use an animal identification except in accordance with this Act and the regulations, and no assignment of an animal identification is valid unless it is done in accordance with this Act and the regulations.

#### Evidence of assignment of animal identification

19(5) A certificate of assignment issued by the registrar under this section is evidence that the assignee is the owner of or has the right to use, as the case may be, the animal identification referred to in the certificate.

#### Offences

20 A person who

- (a) removes, alters, defaces or obliterates an animal identification without the consent of the owner of the animal identification or, where the animal identification has been assigned, the assignee of the animal identification entitled to its use and possession;
- (b) refuses to obey an inspector's request to stop a vehicle under the person's control or who otherwise disobeys a direction or order given by an inspector under this Act;
- (c) willfully hinders or interferes with an inspector in the performance of the inspector's duty;
- (d) presents livestock for inspection without authority of the owner of the livestock; or
- (e) describes livestock or an animal identification incorrectly on a bill of lading or livestock manifest;

is guilty of an offence and is liable on summary conviction to the penalty provided for in section 22.

#### Livestock transportation requirements

21(1) No person shall transport livestock within Manitoba without having in his or her immediate possession at all times during such transportation a livestock or animal bill of lading, a Manitoba Livestock Manifest in the form prescribed in the regulations, another form of livestock manifest acceptable to the director, a bill of sale, an animal identification registration certificate or other documentary proof of ownership of the livestock acceptable to the director.

#### Identification document

21(2) No person shall transport livestock of two or more contributors without having in his or her immediate possession separate documentation to identify the livestock of each contributor.

#### Penalty for breach of Act or regulations

22 A person who contravenes a provision of this Act or the regulations for which a penalty is not otherwise provided is guilty of an offence and is liable on summary conviction,

- (a) for a first offence, to a fine of not more than \$25,000. or imprisonment for a term of not more than six months; and

(b) for a second or subsequent offence, to a fine of not more than \$100,000. or imprisonment for a term of not more than one year.

#### Protection from liability

23 No proceeding for compensation or damages shall be instituted against the director, an inspector, an auditor, an analyst or any person engaged in the administration of this Act for any act done in good faith in the performance or intended performance of a duty or in the exercise or intended exercise of a power under this Act, or for any neglect or default in the performance or exercise in good faith of the duty or power.

#### Agreements

24(1) For the purposes of this Act, the minister may enter into an agreement with a qualified person or organization or a government for the performance of such duties or functions under this Act as the minister may specify, on such terms and conditions as the minister may specify.

#### Terms

24(2) An agreement under subsection (1) may authorize the person, organization or government to keep any fees, charges or costs they are entitled to recover under section 25 and use them, among other things, to defray the costs of performing the duties and functions specified in the agreement.

#### Recovery of fees, charges or costs

25(1) The minister, and any person, organization or government that has entered into an agreement with him or her under section 13 or 24, may recover from a person referred to in subsection (2) any prescribed fees or charges and any costs incurred in relation to anything required or authorized under this Act, including, but not limited to,

(a) the inspection, testing or analysis of livestock or of a livestock product, place or thing, or the identification, storage, removal, disposal or return of any livestock, livestock product or thing, required or authorized under this Act; and

(b) the forfeiture, disposal, seizure or detention of any livestock, livestock product or thing under this Act.

#### Persons liable

25(2) The fees, charges and costs are recoverable jointly and severally from the owner or occupier of the place or the owner of the livestock, livestock product or thing and from the person having the possession, care or control of it immediately before its inspection, detention, forfeiture, testing, analysis, identification, storage, removal, return or disposal or, in the case of livestock or a livestock product or thing seized under this Act, immediately before its seizure.

#### Unpaid fees, charges or costs

25(3) Any fees, charges or costs that are recoverable under this section may be recovered as a debt due.

## Regulations

26(1) The minister may make regulations

- (a) prescribing species of animals that are livestock;
- (b) fixing and defining the grade standards of livestock and livestock products;
- (c) requiring, and prescribing the manner and conditions of, the grading, inspection, inspection auditing, production, processing, marking and tracing of livestock and livestock products;
- (d) respecting
  - (i) the manner in and conditions under which livestock and livestock products may be transported, delivered, shipped, advertised, purchased, sold, or offered or displayed for sale, and
  - (ii) the size, kind, branding, marking and labelling of packages or containers in which livestock products may be contained;
- (e) respecting the physical, chemical and biological standards and conditions under which livestock and livestock products may be produced, processed, held for sale and sold in any part of Manitoba;
- (f) requiring safety and quality programs under which livestock and livestock products may be produced, processed, held for sale and sold in any part of Manitoba and respecting the implementation and requirements of those programs;
- (g) respecting the manner in which the seller or shipper of ungraded livestock and livestock products shall identify, for purposes of grading, individual producer's lots in such shipments;
- (h) respecting
  - (i) the manner in and conditions under which the purchaser of livestock or livestock products shall make payment and prepare for presentation to the seller or shipper or to the subsequent purchaser or receiver the statements of account of purchase of livestock and livestock products, and
  - (ii) the investigation of those statements and the transactions to which they relate;
- (i) respecting the manner in which operators of commercial vehicles transporting livestock or livestock products for sale, and who receive the proceeds from the sale of the livestock or livestock products, shall be required to guarantee the proper return of the proceeds to the owners of the livestock or livestock products transported and sold;
- (j) respecting the manner in which the purchaser of livestock or livestock products at assembling points and abattoirs shall record the receipts, classifications, weights and purchase prices of purchases and requiring the records to be made available to the director;
- (k) prescribing that eggs of a condition unfit for human consumption shall not be bought, sold, exposed, or offered for sale;

(l) classifying persons dealing in livestock or livestock products, or operating stockyards, and requiring any or all classes of dealers or operators to be licensed;

(m) respecting the forms and classes of licences to be issued, their duration, renewal, who shall issue them, and the fees payable for them, and respecting requirements for licensing and other authorizations and all related matters, including the issue, suspension and cancellation of licences and other authorizations, and respecting appeals in relation to licences and other authorizations, and respecting the recognition of licences issued in other jurisdictions to persons otherwise required to be licensed under the regulations;

(n) respecting the detention and disposal of livestock and livestock products by an inspector;

(o) requiring all or any class or classes of persons dealing in livestock or livestock products or operating stockyards to furnish to the minister a guarantee or surety bond or other security, specifying the form and amount thereof, which amount may differ in different classes or within the same class, and prescribing the conditions upon which, and the manner in which, the bond or other security may be realized upon;

(p) respecting the forms, procedures and manner in which livestock and livestock products are identified at each stage of the production and processing chain for the purpose of verifying ownership, source of origin, safety and security of quality control;

(q) respecting the inspection of livestock and livestock products by an inspector and the issuance of an inspection certificate;

(r) respecting the establishment, operation and maintenance of the register or registers of animal identification under section 13;

(s) respecting information to be recorded in the register of animal identification;

(t) respecting the manner in which persons may apply for registration or renewal of registration of an animal identification and the nature and form of the information to be provided by those persons;

(u) respecting the terms and conditions under which persons may register an animal identification;

(v) respecting the cancellation of registration of an animal identification;

(w) respecting the identification of livestock with animal identifications, including

(i) the kinds or classes of livestock that must be identified with an animal identification in all or a part of the province,

(ii) the types, forms or methods of animal identification that may be registered and used in the province,

(iii) the different types, forms or methods of animal identification that may be used to identify different kinds or classes of livestock,

(iv) the locations on or in a kind or class of livestock that an animal identification may be applied or inserted;

(x) respecting the terms and conditions under which an animal identification may be assigned;

(y) respecting the manner in which a person shall register an assignment of an animal identification and the nature and form of the information to be provided by the person and exempting assignments of certain types of animal identification from the requirements of subsection 19(2);

(z) prescribing additional duties to be performed by an inspector, auditor or analyst;

(aa) prescribing forms for use under this Act and the regulations, including certificates under sections 15 and 19;

(bb) prescribing any fees or charges, or the manner of calculating any fees or charges, required for carrying out the purposes and provisions of this Act and the regulations;

(cc) respecting the implementation of an agreement made under section 24;

(dd) defining any word or expression used but not defined in this Act;

(ee) prescribing any matter or thing that is required or authorized by this Act to be prescribed by regulation;

(ff) respecting any other matter or thing that the minister considers necessary or advisable to carry out the intent of this Act.

#### Partial application of regulations

26(2) Where the minister deems it advisable, regulations made under subsection (1) may be made applicable to, and required to be observed in, a part of the province only.

27 NOTE: This section contained consequential amendments to The Highway Traffic Act which are now included in that Act.

#### Repeal

28 The Livestock and Livestock Products Act, R.S.M. 1987, c. L170, is repealed.

#### C.C.S.M. reference

29 This Act may be cited as The Livestock and Livestock Products Act and referred to as chapter L170 of the Continuing Consolidation of the Statutes of Manitoba.

#### Coming into force

30 This Act comes into force on a day fixed by proclamation.

NOTE: S.M. 1997, c. 31 was proclaimed in force April 1, 1998.