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States' Animal Identification Statutes:

South Dakota



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S.D. Codified Laws § 40-3-26 through 29 S.D. Codified Laws Tit. 40, Ch. 19

Current through the 2024 Regular Session, Ex. Ord. 24-1, and Supreme Court Rule 24-04.

S.D. Codified Laws § 40-3-26. Rules regulating breeding, raising, marketing, and transportation of certain captive nondescriptive animals.

The Animal Industry Board shall, by rules promulgated pursuant to chapter 1-26, regulate the breeding, raising, marketing, and transportation of any captive nondomestic animal of the mammalia class and the products thereof which is allowed in the state pursuant to § 40-3-25. The rules may provide the following:

- (1) Require a permit of any person possessing such animals;
- (2) Prescribe the application procedures for a permit;
- (3) Require a legal description of the premises where such animals are held;
- (4) Require an inventory of such animals at the time of application and require reports to provide for the continual accounting of such animals and their offspring;
- (5) Require the marking of such animals for identification purposes;
- (6) Require facilities and procedures to ensure such animals to be confined from free-roaming animals;
- (7) Establish facility requirements and procedures for identification and inspection of such animals by the board;
- (8) Establish the grounds for denial, suspension, or revocation of a permit and for the seizure and disposition of any unlawfully held animal; and
- (9) Establish a fee for a permit which may not exceed one hundred dollars.

S.D. Codified Laws § 40-3-27. Programs for identification of animals and premises involved in animal movements – Records – Purpose.



The Animal Industry Board may develop and implement specific programs for the identification of animals and premises involved in animal movements. Any program implemented pursuant to §§ 40-3-27 to 40-3-29, inclusive, must provide for confidentiality of identification records other than those records requested by law enforcement officers of the state and those records used for mandatory disease control or eradication efforts. A livestock owner may choose to identify animals using any methods set forth in 9 C.F.R. part 86, as adopted on January 9, 2013, as well as any additional methods that are later approved by the South Dakota Animal Industry Board pursuant to this section.

Any identification program implemented pursuant to §§ 40-3-27 to 40-3-29, inclusive, shall be for the sole purpose of maintaining animal health and ensuring the safety of the food supply.

S.D. Codified Laws § 40-3-28. Development of identification program conflicting with or superceding state brand laws prohibited.

The Animal Industry Board may not develop and implement any identification program that conflicts with or supercedes any provision of the state brand laws.

S.D. Codified Laws § 40-3-29. Promulgation of rules for implementation of identification programs.

The Animal Industry Board shall promulgate rules pursuant to chapter 1-26 for the implementation of identification programs concerning:

- (1) Descriptions of the systems used to implement identification programs;
- (2) Methods and procedures to foster cooperation with industry, other states, and the federal government in implementing identification programs;
- (3) Definitions to be used in identification programs;
- (4) Types of identification approved in identification programs;
- (5) Methods for tracking movements of animals included in identification programs;
- (6) Penalties for intentional removal of official identification devices from animals within the state or from animals imported into the state;
- (7) Confidentiality of identification records other than those used for mandatory disease control and eradication programs;
- (8) Types and species of animals included in identification programs; and
- (9) Criteria for defining programs as voluntary or mandatory.



S.D. Codified Laws § 40-19-1. Use of unregistered brand as misdemeanor.

It is a Class 1 misdemeanor to hot iron brand any domestic animal or other livestock or to otherwise use any recordable brand, unless the brand is valid as provided by law and is registered in the name of the user with the Office of the State Brand Board.

S.D. Codified Laws § 40-19-2. Exclusive right to use brand after registration.

Any person may apply for a brand and use that brand exclusively in this state after registering the brand and by renewing it as provided in this chapter.

S.D. Codified Laws § 40-19-2.1. Placement of brand.

Hot iron brands may be placed on the right or left shoulder, rib, or hip of cattle, on the right or left shoulder or hip of horses and mules, on the right or left jaw of horses, on the nose or jaw of sheep and on the rib or hip of buffalo. No brand may be recorded for ownership identification purposes on either the left or right jaw of cattle. No brand may be recorded on the ribs of horses or mules.

S.D. Codified Laws § 40-19-3. Single symbol brand not recordable – Validity of presently recorded brands – Exception for sheep – Hot iron or paint for sheep.

The branding of cattle, horses, mules, and buffalo shall be done by use of a hot iron. A freeze brand may, however, be applied to horses and mules. A single letter, number, figure, bar, quarter circle, half circle, or complete circle, or a half diamond, or complete diamond placed on livestock are unrecordable brands under this chapter, including new split-brands. However, presently recorded brands are valid as long as fees are paid and there is no conflict with board policy.

A single letter, symbol, or number brand is recordable for sheep. A sheep brand shall be either a hot iron brand or shall be applied with branding paint. No more than two colors or one color and a hot iron brand may be recorded for sheep under one application fee. Authorized paint colors are yellow, blue, green, black, red, or purple. No dot, bar, slash, quarter circle, circle, or the letter "Q" may be registered as a sheep brand. A brand may be recorded for the side, hip, nose, or jaw on either the left or right side of sheep. No brand may be recorded as "across the back" of a sheep. A sheep brand, regardless of position, is only recordable in a different color on the same location.

S.D. Codified Laws § 40-19-4. Filing of application for brand – Facsimile included.

Any person desiring to use or adopt any recordable brand for livestock ownership identification purposes shall make and sign an application setting



forth a facsimile of the brand desired and file the application for registration in the office of the board.

S.D. Codified Laws § 40-19-5. Application form – Notice if brand recordable – Fees.

An application for a registered brand shall be submitted on a form provided by the board. Applications shall be processed in the order of their receipt and the applicant shall be notified if the brand is recordable and of the fees due for registration.

S.D. Codified Laws § 40-19-6. Registration of brand – Certificate of registration.

If the brand is recordable, the board shall register the brand upon payment of the required fees and shall issue a certificate of registration. Ownership of a brand begins on the date of registration.

S.D. Codified Laws § 40-19-7. Rejection of brands by board – Grounds – Composition of brands – Location on animal as part of brand.

The board shall reject any brands formed from any letter, number, or symbol which is a duplicate of, or in conflict with, any brand previously registered for that location on an animal. Any brand approved for registration shall be composed from the combination of no less than two and no more than three letters, numbers, or symbols, except for sheep. Only the following may be accepted for registration:

- (1) Letters A to P and R to Z, in the plain gothic style of print;
- (2) Arabic numerals from two to nine, inclusive;
- (3) Symbols, including diamond, half diamond, arrow, mill iron, heart, box, half box, quarter circle, bar, cross, triangle, or slash;
- (4) Character brands that were cancelled by the board for nonrenewal, but only if registered by the person who owned the brand at the time it was cancelled, or if the person is deceased, by the spouse or by the lineal descendants of the person.

Any brand that is similar to any previously registered brand or that in the board's determination could be changed to resemble a previously registered brand may be rejected. Location of a brand on an animal is construed as part of the brand. A variation in the size of a letter, number, or figure does not constitute a new brand and shall be rejected.

S.D. Codified Laws § 40-19-8. [Repealed].



S.D. Codified Laws § 40-19-9. Rejection of brand adding symbol to existing brand – Exception.

The board shall reject any brand that has, in addition to being the same as one previously registered, any of the following marks, whether placed across, above, below, at either side or encircling the main brand: a straight bar, a quarter, half or entire circle, half or entire diamond, unless one or more of such marks is filed by the current owner of the first registered brand, in which case it may be accepted.

S.D. Codified Laws § 40-19-10. [Repealed].

S.D. Codified Laws § 40-19-10.1. Permit required for cattle branded with out-of-state brand – Cattle purchased for export – Violation as misdemeanor.

No person may bring cattle branded with a brand registered in another state into the ownership inspection area for grazing or feeding purposes without a permit authorized by the board. If the brand is a duplicate of or conflicts with a brand issued pursuant to this chapter, a permit may only be issued at the discretion of the board. No permit is required if the cattle are rebranded with a brand registered pursuant to this chapter. The application for a permit shall be on a form approved by the board and shall be signed by the owner of the cattle. Any calves born to cattle which are subject to the permit may be branded with the out-of-state brand upon prior written notice to the board. The calves shall be added to the permit. No cattle or calves subject to the permit may be removed from the ownership inspection area, sold, or slaughtered without an ownership inspection.

No person may brand any cattle imported into or purchased within the ownership inspection area for feeding purposes with a brand registered in another state without a permit authorized by the board. No permit may be issued if the brand is a duplicate of or conflicts with a brand issued pursuant to this chapter. The application for a permit shall be signed by the owner of the cattle. No cattle subject to the permit may be removed from the ownership inspection area, sold, or slaughtered without an ownership inspection.

Cattle purchased at a licensed livestock auction market in the ownership inspection area may be branded with the owner's out-of-state brand if the cattle are branded at the market, are purchased for export from the state within two calendar days of purchase, and an authorization form is obtained from the board prior to branding the cattle.

A violation of this section is a Class 1 misdemeanor.

S.D. Codified Laws § 40-19-11. Registration of brands approved – Preservation of applications on certificates – Registration and renewal fees.



Any brand approved by the board shall be registered, and the board shall keep and maintain a register of any application filed and certificate issued relating to a brand. Any person desiring to have a brand registered shall remit to the board a fee pursuant to § 40-18-16, for each brand. In addition to the registration fee, any person registering a brand shall remit to the board a renewal fee pursuant to § 40-18-16.

S.D. Codified Laws § 40-19-12. Five-year renewal of brands – Renewal fee.

Each registered brand is subject to renewal on January first in years ending in zero and five. Each brand owner shall pay to the board a renewal fee pursuant to § 40-18-16.

S.D. Codified Laws § 40-19-13. Abandonment of brand by failure to renew.

Any registered brand which is not renewed within one hundred twenty days after January first as provided for in § 40-19-12 is deemed abandoned by its owner, is canceled, and may not be renewed.

S.D. Codified Laws § 40-19-13.1. Cancellation of certificate paid for with bad check.

The board may cancel any certificate issued pursuant to this chapter if the registration fee, renewal fee, or transfer fee is paid by an insufficient funds or no-account check.

S.D. Codified Laws § 40-19-14. Rerecording of cancelled brand by previous owner.

During the first two years following the current brand ownership period, only the previous owner may apply for a brand canceled under § 40-19-13. If the brand is recordable, the previous owner may register the brand by paying the registration fee and a two hundred dollar rerecord fee. If the brand was registered before cancellation, the brand is recordable and the previous owner may register the brand by paying the registration fee and a two hundred dollar rerecord fee. During the two years following the current brand ownership period, it is not a violation of § 40-19-21:

- (1) If the previous owner sells livestock bearing the canceled brand; or
- (2) If the previous owner brands livestock with the canceled brand before becoming aware of the cancellation.

S.D. Codified Laws § 40-19-15. Change of registration on receipt of bill of sale – Fees for recording transfers – Certain brands not to be transferred to separate owners.

The board shall change the name of the owner of registered brands upon receipt of a legally executed bill of sale. The board shall charge a transfer fee pursuant to § 40-18-16. If an owner has recorded an identical brand for both shoulder and rib



locations on one side of any livestock, the brands may not be transferred separately to different owners. A separate fee is required for each brand location if transferred.

S.D. Codified Laws § 40-19-16. Replacement of lost or destroyed certificate – Affidavit – Fee.

The board shall issue a duplicate brand certificate in case of loss or destruction of the original certificate upon receipt of an affidavit signed by the owner and notarized describing the brand. The board shall charge a fee pursuant to § 40-18-16.

S.D. Codified Laws § 40-19-17. Cancellation of brand conflicting with previous brand.

The board may cancel from record any brand which has been registered in conflict with a previously recorded brand or which is a duplicate thereof.

S.D. Codified Laws § 40-19-18. Cancellation of brand used for felony or theft.

The board may cancel from record any brand owned and used by any person to perpetrate any felony or theft of cattle, horses, mules, sheep, and buffalo.

S.D. Codified Laws § 40-19-19. Replacement brand for cancelled brand – Application – No assessment of fee.

If a brand is canceled as provided in § 40-19-17, the owner of the brand may select a replacement brand that does not conflict with any other brands of record. The owner may apply for a replacement brand as though he is applying for a new brand except that no new brand fee may be assessed for the brands.

S.D. Codified Laws § 40-19-20. Conflict by unrecorded brand – Statement by users of registered brand – Notice and hearing or statement by user of unrecorded brand – Notice to discontinue use – Liability for damages – Misdemeanor.

If any brand conflicts with another person's registered brand, the person using the registered brand may file a written statement with the board showing the brand which conflicts with his registered brand. The board shall notify the person accused of using such conflicting brand, by certified or registered mail. The person upon whom such notification is served may appear in person before the board or present a statement to the board explaining how the unrecorded brand is not an infringement upon or in conflict with the registered brand. If the board decides that the unrecorded or last registered brand conflicts with the first registered brand, a notice shall be served upon the person using the unrecorded or last recorded brand to discontinue its use within thirty days from the receipt of such notice. Any person failing to comply with



the provisions of this section is liable for all damages resulting from such failure and is guilty of a Class 1 misdemeanor.

S.D. Codified Laws § 40-19-21. Unlawful use of brand as misdemeanor.

Any person who uses a brand upon cattle, horses, mules, sheep, or buffalo which has been canceled, continues to use a brand upon cattle, horses, mules, sheep, or buffalo after it has been rejected, or uses any recordable brand upon cattle, horses, mules, sheep, or buffalo without first registering it is guilty of a Class 1 misdemeanor.

S.D. Codified Laws § 40-19-22. Fees paid into brand fund – Purposes for which used.

Fees required by §§ 40-19-11, 40-19-12, 40-19-15, and 40-19-16 shall be collected by the board and be paid into the state treasury to the credit of the brand fund, which fund shall not at any time revert to the general fund of the state or be diverted to any other purposes than those stated in this chapter, or chapters 40-20 and 40-21.

S.D. Codified Laws § 40-19-23. Administrative expenses paid from brand fund – Vouchers and warrants – Publication and sale of brand books and supplements.

All expenses for salary of employees, per diem and traveling expenses of members of the board, books, records, files, and office equipment necessary for the maintenance of a permanent system of brand registration, rerecording, and renewals as provided for in this chapter, and the execution and enforcement of the provisions of chapters 40-18 to 40-22, inclusive, and chapter 40-29 shall be allowed upon vouchers approved by the board and warrants issued therefor by the state auditor, and paid out of the brand fund by the state treasurer.

The expenses referred to in this section include the expense of printing brand books and supplements sold for a price to be fixed by the board at not less than cost. The receipts from such sales shall be paid to the state treasurer and shall be deposited in the brand fund.

S.D. Codified Laws § 40-19-23.1. Brand board activities.

The board may:

- (1) Contract and cooperate with any person, organization, or governmental department or agency for education, research, theft prevention, and carrying out the provisions of chapters 40-18 to 40-22, inclusive, and chapter 40-29;
- (2) Expend the funds collected pursuant to chapters 40-19, 40-21, and 40-29, and appropriated for their administration; and



(3) Accept donations of funds, property, services, or other assistance from public or private sources to carry out the provisions of chapters 40-18 to 40-22, inclusive, and chapter 40-29; and

(4) Develop and disseminate information relating to the purpose of livestock ownership inspection and theft prevention.

S.D. Codified Laws § 40-19-24. Registered brand as prima facie evidence of ownership – Copy of register as proof of brand.

In any action or proceeding at law or in equity, if the title to any cattle, horses, mules, sheep, or buffalo is involved, the brand on any animal shall be prima facie evidence of the ownership of the person whose brand it may be, if such brand is currently registered and renewed as provided by law. Proof of the right of any person to use any brand shall be made by a copy of the register of the same, certified in all cases of brands registered under this chapter, by the board.

S.D. Codified Laws § 40-19-25. Misuse or alteration of brand as felony.

Any person who, with intent to defraud, brands or marks any cattle, horse, sheep, buffalo, or mule, not his own; intentionally brands over a previous brand or in any manner alters, defaces, or obliterates a previous brand; or cuts out or obliterates a previous brand on any cattle, horse, sheep, buffalo, or mule is guilty of a Class 5 felony.

S.D. Codified Laws § 40-19-26. Property rights unimpaired.

Nothing in this chapter shall be so construed as in any manner to impair the property rights of any owner of livestock in this state.

S.D. Codified Laws § 40-19-27. [Repealed].

