



Since 1894

To: Senate Agriculture Committee
Senator Garrett Love, Chair

From: Mike Beam, Sr. Vice President

Re: **Support for House Bill No. 2480**

Date: March 14, 2016

The Kansas Livestock Association (KLA), formed in 1894, is a trade association representing over 5,200 members on legislative and regulatory issues. KLA members are involved in many aspects of the livestock industry, including seedstock, cow-calf and stocker production, cattle feeding, dairy production, grazing land management and diversified farming operations.

The Kansas Livestock Association (KLA) supports HB 2480, which makes many changes and updates to the Kansas brand laws. Two of our members participated in the stakeholder work group appointed by the Kansas Department of Agriculture Animal Health Division. (As KLA staff, I sat in on these meetings as well.)

Since some of our brand laws date back to 1939, it's understandable many of these statutes are no longer appropriate or compatible with the management and marketing technology of today's vibrant livestock industry. We applaud the Animal Health Division staff for recognizing these statutes needed reviewed and updated. In addition, we appreciate their willingness to involve stakeholders and openly seek input.

This bill (as amended by the House) proposes to add one new section of law (New Section 1 of HB 2480); amend 14 sections of current law; and repeal 14 sections of the brand laws. The sections being repealed are listed in Section 16, but are not printed for your review in the bill. I prepared the attached six-page document to help me sort through all the changes proposed by this legislation.

I'd like to highlight what I believe are the most significant policy changes of HB 2480:

1. There are currently three fee funds for brand inspection revenues. HB 2480 repeals the "livestock brand emergency revolving fund" and the "county option brand fee fund". The livestock brand fee fund would continue to exist to receive funds from brand inspection fees that are generated mostly by brand inspections at six Kansas livestock auction markets. (New Section 1)
2. This bill shortens (from 180 days to 60 days) the time frame from when a brand owner fails to pay his/her brand renewal registration to when the brand is available to be registered by another person. (Section 5)

3. HB 2480 would allow an individual numeral or serial brand, that's not a registered ownership brand, to be used without designating this type of brand with their registered brand. In addition, the current \$1.50 add-on fee would be repealed. (Section 8)
4. HB 2480 amends current law (K.S.A. 47-423), which allows a person bringing branded cattle into Kansas from another state...for the purpose of grazing or feeding for a period of not to exceed 12 months (current law is 8 months) ...from the requirements of obtaining a permit from the animal health commissioner and from being in violation of the law (K.S.A. 47-420) that says all brands used in Kansas must be registered in Kansas. (Section 11)
5. HB 2480 repeals the county option brand laws, including K.S.A. 47-434, 435, 436, 437, 438, 439, 440, 441, and 442.

Background: Current law lists Hamilton, Kearny and Wichita counties as brand inspection areas. The brand law says in a brand inspection area any person (owner, motor carrier, railroad, or agent) may not lawfully move, drive, ship or transport cattle from any point in a brand inspection area to a non-brand inspection area unless the cattle first have been brand-inspected. The agency has recently learned these counties are not collecting fees and enforcing this provision of law.

It is important to note this bill does not repeal or change the current brand inspection program for livestock auction markets. Today, on a voluntary basis, the following markets provide this service to their consigners. (The brand inspection fee is paid by consigners.)

Hill City Livestock Market, LLC
LaCrosse Livestock Market, Inc.
Norton Livestock, Inc.

Oberlin Livestock Auction
St. Francis Auction Market

The Syracuse Livestock Market is located in a brand inspection area, but it may choose to continue providing brand inspections if HB 2480 passes and repeals the county option brand laws.

I'm sure there are many questions regarding brand laws, livestock identification programs, livestock theft, and the implications of HB 2480. I will try to answer questions or provide additional information if necessary. In summary, this bill makes many overdue changes and updates in the brand law statutes. KLA supports the passage of HB 2480 with the inclusion of our proposed amendment reinserting K.S.A. 47-423 as amended.

Thank you!

House Bill No. 2480

Legislation amending and/or repealing provisions of Kansas brand laws

(prepared by M. Beam, KLA, updated 02.10.16)

New Section 1 – Directs the transfer of moneys in the “livestock brand emergency revolving fund” and the “county option brand fee fund” to the existing “livestock brand fee fund”. The livestock brand emergency revolving fund and county option brand fee fund would be abolished by the passage of HB 2480.

Section 2 – Current law (K.S.A. 47-414) allows brands to be made by “any acid, chemical, a hot iron or cryogenic branding” ...and paint or tar if used on sheep. HB 2480 strikes “any acid, chemical” as a means for applying a legal brand. HB 2480 also strikes the reference to animal health board in the brand laws.

Section 3 – This section also strikes the reference to animal health board in the brand laws.

Section 4 – The authority of the livestock commissioner to appoint brand inspectors, special investigators, examiners, deputy assistants and employees necessary to carry out the provisions of the brand laws would be changed to require the approval of the Secretary of the Kansas Department of Agriculture before the commissioner makes such appointments. This section also repeals the statute requiring approval of the animal health board before the commissioner makes appointments. Furthermore, this section includes new language granting the Secretary authority to enter into contractual agreements with the Attorney General.

Section 5 – Current law defines a brand as delinquent if the owner fails to pay the renewal registration fee within a 60 day grace period of the renewal date expiration. The delinquent period is 120 days. When the delinquent period expires without the owner paying the renewal registration fee, the brand is considered abandoned and may be acquired by another party. This section of the bill repeals the delinquency phase and designates a brand as forfeited if the renewal payment is not made prior to the end of the 60 day grace period.

Section 6 – The statute requires the person requesting brand inspection to pay a brand inspection fee of up to 75 cents/head on cattle and up to 5 cents/head for sheep and all other livestock. HB 2480 strikes the 5 cent fee for sheep and establishes a maximum 75 cents/head for all livestock.

The animal health commissioner remits brand inspection proceeds to the state treasurer, who subsequently credits the livestock brand fee fund.

Vouchers to approve expenditures of the brand fee fund are to be approved by the commissioner. HB 2480 changes the approval to the Secretary.

New statutory language is added, which states “The commissioner is authorized to adopt and enforce such rules and regulations governing brand inspections as the commissioner shall deem necessary for the proper enforcement of the livestock laws in Kansas. The commissioner, brand inspectors and special investigators shall aid in investigations and prosecutions of violations of the livestock laws of Kansas and other laws of this state and of the rules and regulations of the commissioner.”

Section 7 – Existing law requires a “T” brand on the left jaw to identify tuberculosis reactors, the letter “V” may be used on the left jaw to identify brucellosis vaccinated cattle; the letter “S” may be branded on the left jaw or tail head to identify brucellosis exposed or untested test eligible animals; and the letter “F” may be used on the left jaw or the left tail head to designate heifers from B and C states. HB 2480 repeals the above law, but retains the use of the tail head location for brands for disease control purposes. No applications for livestock brands for owner identification shall be issued for head, neck or tail head locations. (current law)

Section 8 – Current law states “the age, serial, herd or feedlot brand shall not be construed to be part of the registered brand and the use of such numeral or numerals, in conjunction with a registered brand, shall not be unlawful. And current law says “before any person uses any such serial or herd brand in conjunction with a registered brand, such person shall first obtain a permit from the animal health commissioner authorizing such use.” This section of HB 2480 strikes the requirement to obtain a permit from the state to use numeral or numeral brands...with or without the conjunctive use of a registered herd brand.

This section of the bill allows a registered brand application to denote the use of age, serial or herd brands (numeral or numerals), but the existing \$1.50 fee would be repealed with HB 2480.

Section 9 – This section adds a new provision for a class A misdemeanor for a person “who willfully brands or causes to be branded any livestock in any manner other than as required or authorized by the laws of this state.

The House Agricultural and Natural Resources Committee amended this section to omit reference to making it a class A misdemeanor for falsely branding livestock in a manner that incorrectly designates disease control ID or ownership. The intention of the committee amendment was to make this subsection (a) cleaner and less confusing. Rarely, if ever, would someone falsely use a disease indicator brand and if they did it would still be a violation of the brand law.

(The bill does not change existing law that designates a felony, to be punished by confinement by the secretary of corrections for up to five years, for anyone who

“willfully and knowingly brand or cause to be branded with such person’s brand, or any brand not the recorded brand of the owner, any livestock being the property of another, or who shall willfully or knowingly efface, deface or obliterate any brand upon any livestock.”

Section 10 – Current law allows a brand to be sold, assigned, and transferred upon written evidence of such reassignment but the transfer/reassignment must be recorded by the Kansas Department of Agriculture’s Animal Health Division. This fee is set at \$15 in law, but HB 2480 changes this fee to an amount not to exceed \$30. HB 2480 repeals the class C misdemeanor for violating this section of law.

Section 11 – This section was added by the House Agriculture and Natural Resources Committee. It added and amended K.S.A. 47-423 to allow cattle brought into Kansas from an owner in another state to use their brand (if registered in the state of origin) without being required to register their brand in Kansas. After 12 months (current law is 8 months), the cattle owner would be required to register their brand in Kansas or register a new brand in this state. (KLA proposed this amendment)
In addition, the committee adopted an amendment to this section of law saying “Out-of-state brands shall represent legal ownership for such 12-month period.”

Section 12 – This section seems to be clean up and includes an elimination the wording, “Any such brands (numeral or numerals) shall be at least six inches from the recorded brand.” [This six inch set back is captured in another section of law (KSA 47-420) addressing the use of numeral brands for individual ID.]

Section 13 – Current law (KSA 47-428) authorizes the animal health commissioner and the commissioner’s deputies or assistants to enter upon any private lands to make any inspections necessary for the purpose of carrying out the provisions of the state’s brand laws. This section of HB 2480 extends this permission to “special investigators, inspectors or examiners”.

In addition, new language...“or any other identification”...is added to the list of sufficient information necessary to exclude and exempt animals from being classified as strays.

Section 14 – Current law allows the use of feedlot brands that are not the registered brand of the cattle owner. A feedlot brand shall not be construed as evidence of ownership identification. This section of HB 2480 repeals the statute requiring cattle with a feedlot brand to be held by the feedlot under quarantine until moved to slaughter or released by the commissioner for grazing purposes. In addition, the current requirement that all cattle released from a feedlot for grazing purposes must have a registered ownership brand is stricken in HB 2480.

Section 15 - Existing law stating that cattle sold at an auction market, and originate from a county option brand inspection area, are not required to be brand inspected at markets that provide brand inspection services would be repealed by this section of HB 2480.

Section 16 – This section **repeals the following portions of the Kansas brand laws:**

K.S.A. 47-418a

This section of law says any person who willfully brands or causes to be branded any cattle in any manner other than as required or authorized by the laws for brand locations...or any person who falsely brands cattle as to incorrectly designate the disease control ID or ownership of livestock shall be deemed guilty of a class misdemeanor. (reinserted in Section 9)

K.S.A. 47-432

This section created the brand emergency revolving fund used for expenses and costs of establishing the ownership of livestock which are mingled as a result of storms or other unforeseen occurrences.

K.S.A. 47-433

This section provides for how and when the brand emergency revolving fund may be used.

K.S.A. 47-434

This statute provides for several definitions relating to brand inspection areas. A brand inspection area means any county which has been designated as such by the board of county commissioners.

K.S.A. 47-435

This section lays out the procedure for petitioning the county commissioners in request of designating or repealing a designation of a county as a brand inspection area. This section also specifically designates Hamilton, Kearny and Wichita as a brand inspection area.

K.S.A. 47-436

This section of law states the livestock commissioner and brand inspectors shall provide brand inspection in all brand inspection areas of the state and perform such acts as may be necessary to aid in establishing ownership of livestock. Furthermore this section requires the commissioner to issue official inspection certificates in such a manner as to

provide the most efficient administration and enforcement of the livestock laws in Kansas.

K.S.A. 47-437

This section sets out the brand inspection fees and authorizes an on-site inspection and mileage fee for inspecting in brand inspection areas.

K.S.A. 47-438

This statute states it's unlawful to sell or dispose of any cattle or sheep in any brand inspection area, or to purchase or receive any cattle or sheep in any brand inspection area, unless the person selling these animals gives the purchaser a written bill of sale.

K.S.A. 47-439

This law makes it unlawful, in any brand inspection area, for someone who has purchased or received cattle or sheep carrying the brand of another or have cattle or sheep in their possession which carries the brand of another, to fail or refuse to exhibit to the inspector or any peace officer a bill of sale upon request.

K.S.A. 47-440

This statute states it's unlawful, in a brand inspection area, to sell cattle or sheep with the brand of another or offer such livestock for sale carrying any brand other than the person's recorded brand without having in his/her possession a bill of sale listing date of transfer, sex of livestock, guaranty of title, and additional specific documents.

K.S.A. 47-441

This statute makes it unlawful for any person (owner, motor carrier, railroad, or agent), in a brand inspection area, to move, drive, ship or transport cattle from any point in a brand inspection area to any point outside such area other than another brand inspection area, unless the cattle have first been brand inspected. No such inspection shall be required in any case where the cattle are being moved from a licensed feedlot.

K.S.A. 47-442

This statute makes it unlawful for a person in a brand inspection area to move cattle within such area unless the cattle have been first inspected for brands; except cattle may be moved without inspection to a market that provides brand inspection or from a licensed feedlot...except cattle from a brand inspected area may be inspected at the time they enter the feedlot. This section also states when a natural or man-made disaster occurs and cattle have strayed or mixed, the commissioner shall have the authority to conduct a brand inspection of cattle in a feedlot. And finally, this section of law says anyone purchasing cattle from within a brand inspection area without receiving a bill of

sale and a brand inspection certificate shall be deemed as counseling, aiding and abetting the seller in the unlawful sale of such livestock.

K.S.A. 47-445

This brief section merely states the act shall be supplemental to articles 2 and 4 of Chapter 47.

K.S.A. 47-447

This statute provides a misdemeanor and, upon conviction, a fine of not less than \$25 or more than \$1,000 for violating K.S.A. 47-420 and K.S.A. 47-446.