

ONE HUNDRED FIRST LEGISLATURE - FIRST SESSION - 2009
COMMITTEE STATEMENT
LB99

Hearing Date: Tuesday January 20, 2009
Committee On: Agriculture
Introducer: Carlson
One Liner: Adopt the Anthrax Control Act

Roll Call Vote - Final Committee Action:
Advanced to General File

Vote Results:

Aye:	7	Senators Carlson, Dierks, Karpisek, Dubas, Price, Schilz, Wallman
Nay:		
Absent:	1	Senator Council
Present Not Voting:		

Proponents:

Rick Leonard
Greg Ibach
Dennis A. Hughes, D.V.M.
Pete McClymont

Representing:

Introducer
Nebraska Department of Agriculture
Nebraska Department of Agriculture
Nebraska Cattlemen

Opponents:

Representing:

Neutral:

Representing:

Summary of purpose and/or changes:

LB 99 is brought at the request of the Department of Agriculture to update authorities of the Department relating to anthrax to be consistent with current veterinary and epidemiological practices applied in other eradication programs. The bill adopts wholly new provisions as the Anthrax Control Act and repeals existing anthrax control provisions in section 54-754 through section 54-763 first placed into statute in the 1930's and remaining largely unrevised since that time.

SECTION-BY-SECTION SUMMARY:

Section 1 Names the act the Anthrax Control Act.

Section 2 States the purpose of the act is to prevent, suppress, and control anthrax to protect the health of Nebraska's livestock.

Section 3 Establishes definitions for use in the act.

Section 4 Provides authority to the Department of Agriculture to: (1) cooperate and contract with any person, including local, state, or national entities for the performance of activities required pursuant to the act; (2) employ all general powers and duties to administer and enforce the act; (3) have access to any premises where livestock are suspected to be infected with anthrax for the purpose of making inspections, conducting tests, including the taking of samples;

treatment affected animals; and to declare, carry out, and enforce any and all quarantines.

Prohibits any person from interfering with the department in regard to enforcement of the act.

Allows the department to delegate to appropriate personnel responsibilities for the proper administration of the act.

Grants authority to adopt regulations concerning the establishment of procedures for the: testing, vaccination, quarantine, cleaning and disinfection of premises, and any other regulations necessary to carry out the act. Also grants authority to designate approved laboratories for the diagnosis and confirmation of anthrax.

The department may provide state funds to or on behalf of herd owners for activities related to the implementation of the act if funds for such activities have been appropriated and are available.

Unless the Legislature appropriates funds to the department specifically for such purposes, the department shall not pay for (1) costs associated with gathering, confining, and restraining animals for vaccination or other anthrax control activities; (2) costs of providing necessary facilities and assistance; (3) indemnity for any animal destroyed as a result of being affected with anthrax; or (4) costs for carcass disposal and any disinfection or cleaning.

Section 5 Imposes a duty on all persons to immediately report animals exhibiting signs consistent with anthrax.

Section 6 Prohibits any person from knowingly harboring, selling, or disposing of any animal or part of any animal exposed to or infected with anthrax except as provided in the Act or regulations.

Section 7 Grants authority to immediately quarantine animals and premises affected by anthrax, and prohibits any person to remove an animal from quarantine until directed to do so by the State Veterinarian.

Section 8 Requires the herd owner or custodian to develop a herd plan in cooperation with the department. Sets the parameters for development of a herd plan.

Section 9 Prohibits any person from preventing the testing, vaccination, and treatment of any affected herd. Owner of an affected herd is required to assist in anthrax examination and testing.

Section 10 Establishes the parameters for the sale and use of anthrax vaccine.

(1) The Department may restrict the sale and use of anthrax vaccine.

(2) Only licensed and approved anthrax vaccines shall be used for the vaccination of livestock, and such vaccine shall be distributed by an accredited veterinarian licensed to practice in the state.

(3) Requires the prescribing or administering veterinarian to maintain records of all sales and purchases of anthrax vaccine for a period of five years, and shall make such records available for departmental review during normal business hours.

(4) An exposed herd may be vaccinated as deemed appropriate by the State Veterinarian.

(5) Requires infected herds to be vaccinated by accredited veterinarians licensed to practice in Nebraska or by a designee of the department.

(6) Allows a herd owner or custodian of a nonaffected herd to purchase anthrax vaccine from an accredited veterinarian.

Section 11 Imposes a duty on the owner or custodians of affected herds which have experienced any death loss to have samples submitted to an approved laboratory for confirmation purposes.

Section 12 Prohibits (1) the transportation of any animal or animal carcass suspected to or which have died of anthrax except under department direction and approval; (2) the use of the flesh or organs of such animal or animal carcass for food for livestock or humans; and (3) the removal of the skin or hide of any animal or animal carcass suspected to or which have died of anthrax.

Section 13 (1) Imposes a duty on the owner or custodian of an animal which has died of anthrax to bury or burn the carcass as directed by the Department. Buried carcasses shall be buried not less than six feet from the surface of the ground.

(2) Establishes responsibility for the herd owner or custodian to clean, disinfect the premises and treat an infected herd and premises if the Department so directs.

Section 14 Confirmation of anthrax shall be made by approved laboratories.

Section 15 (1) Imposes a duty on the owner or custodian of an affected herd or affected premises to be responsible to pay for costs related to anthrax control activities.

(2) Grants authority to the Department of Agriculture to assess and collect payment for services provided and expenses incurred in performing duties under the act.

(3) Violations of the act or regulations constitute a Class I misdemeanor.

(4) Grants authority to the Department of Agriculture to perform the owner or custodian functions under the act, should the owner or custodian fail to carry out such functions.

(5) Imposes a duty on the owner or custodian of affected animals to reimburse the department its actual costs within fifteen days following notice, and the owner or custodian shall be assessed a late fee of up to twenty-five percent of the amount due for each thirty days of nonpayment.

(6) Creates the Anthrax Control Act Cash Fund and provides that the fund shall be used to carry out the provisions of the act.

Section 16 Provides authority for the department to obtain a temporary restraining order; a temporary or permanent injunction, or mandatory injunction for enforcement of the act. The Attorney General or a county attorney is to institute appropriate proceedings when notified of the violation or threatened violation.

Section 17 The department is not liable for actual or incidental costs incurred due to departmental actions in enforcing the act.

Section 18 Violations of the act or regulations constitute a Class I misdemeanor where no penalty is otherwise provided.

Section 19 Amends section 54-744 to include section 13 of this act as an exception to the depth of burial for a dead animal. Anthrax affected animals shall be buried at least six feet below the surface.

Section 20 The original section of 54-744 is repealed.

Section 21 The outright repeal of sections which are no longer necessary because of the Anthrax Control Act.

Section 22 An emergency exists, therefore the act takes effect when passed and approved according to law.

Explanation of Committee Amendments, if any:

Tom Carlson, Chairperson