

No. 48

## AN ACT

HB 1243

Providing for the marking and branding of livestock, recording of brands, fees, uses and sales of brands and penalties.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Definitions.—When used in this act:

- (1) “Secretary” means the Secretary of Agriculture.
- (2) “Person” means an individual, firm, association, partnership, or corporation; the singular shall also mean the plural where applicable.
- (3) “Brand” means an identification<sup>1</sup> mark that is burned into the hide of a live animal by a hot iron or another method approved by the secretary.
- (4) “Cryo-branding” means a brand produced by application of extreme cold temperature.

Section 2. Adoption of Brand.—Any person having cattle, sheep, horses, mules, or asses shall have the right to adopt a brand for the use of which he shall have the exclusive right in this State, after recording such brand as provided in sections 4 and 6.

Section 3. Must be Recorded.—No evidence of ownership by brand shall be permitted in any court in this State unless the brand shall be recorded as provided in sections 4 and 6 or 9. In no case shall cryo-brands be accepted as evidence of ownership.

Section 4. Recording; Fee.—Any person desiring to adopt a brand shall forward to the secretary proper brand application forms of such desired brand, together with a recording fee of fifteen dollars (\$15). Upon receipt of such application and fee, the secretary shall file the same unless such brand is of record as that of some other person or conflicts with or closely resembles the brand of another person, the secretary shall record the same. If the secretary determines that such brand is of record or conflicts with or closely resembles the brand of another person he shall not record it but shall return such facsimile and fee to the forwarding person. The power of examination, approval, acceptance, or rejection shall be vested in the secretary. It shall be the duty of the secretary to file all brands offered for record pending the examination provided for in this section. The secretary shall make such examination as promptly as possible. If the brand is accepted, the ownership thereof shall vest in the person recording it from the date of filing.

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<sup>1</sup>“identification” in original.

Section 5. *Effect of Record.*—The recording provided for in sections 4 and 6 or 9 shall secure the brand to the person and shall be considered personal property of said owner.

Section 6. *Certified Copies Furnished.*—As soon as the brand is recorded by the secretary, he shall furnish the owner thereof with two certified copies of the record of such brand. Additional certified copies may be obtained by the payment of five dollars (\$5) for each copy. Upon receipt by the owner of the certified copies of the record of such brand from the secretary, the owner shall within ten days file one of the certified copies in the office of the county recorder of the county where the owner's principal place of business is located and one copy in each county where such branded animals are to be kept.

Section 7. *Unlawful Use of Brand.*—It shall be unlawful to use any brand for branding any horses, cattle, sheep, mules, or asses unless the brand has been recorded as provided by this act. Hot brands and cryo-brands, consisting of Arabic numerals only, may be used in conjunction with recorded brands for within the herd identification and as such shall not be recorded; and when so used shall not be evidence of ownership. Anyone convicted of violating this section shall be fined a sum not to exceed one hundred dollars (\$100) or imprisoned in the county jail not to exceed thirty days.

Section 8. *Sale or Assignment of Brand.*—Any brand recorded as provided in section 4 shall be the property of the person causing such record to be made and shall be subject to sale, assignment, transfer, devise, and descent as personal property. Instruments of writing, evidencing the sale, assignment, or transfer of such brand shall be recorded by the secretary and the fee for recording such sale, assignment, or transfer shall be five dollars (\$5).

Section 9. *Certified Copies to New Owner.*—As soon as instruments of writing evidencing the sale, assignment, or transfer of a brand have been recorded by the secretary, he shall furnish such new owner certified copies of such sale, assignment, or transfer. Upon receipt of the certified copies from the secretary, such person shall within ten days file one of such certified copies in the office of the county recorder of the county or counties where the certified copy or copies of the prior record of such brand was filed under section 6 of this act<sup>1</sup>, one certified copy in the office of the county recorder of the county in which such new owner's principal place of business is located, and one copy in each county where such branded animals are to be kept.

Section 10. *Evidence of Ownership.*—In all suits at law or equity or in any criminal proceedings in which the title to animals is<sup>2</sup> an issue, the certified copies recorded as provided for in section 6 or 9 shall be prima-

<sup>1</sup>"section" in original.

<sup>2</sup>"in" in original.

facie evidence of the ownership of such animal by the person in whose name the brand is recorded.

Disputes in custody or ownership of branded animals shall be investigated, on request, by the sheriff of the county where the animals are located and he may call upon the services of a disinterested veterinarian, approved by the Secretary of Agriculture, in reading the brands on animals. The cost of the veterinarian's services shall be borne by the person requesting the investigation which cost shall be limited to ten dollars (\$10) per trip. The results of the sheriff's investigation shall be a public record and be admissible in evidence.

Section 11. Publication of Brands List.—It shall be the duty of the secretary from time to time to cause to be published in book form a list of all brands on record at the time of such publication. Such lists may be supplemented from time to time. The publication shall contain a facsimile of all brands recorded and the owner's name and post office address. The records shall be arranged in convenient form for reference. It shall be the duty of the secretary to send one copy of the brand book and supplements to the county recorder of each county. Such books and supplements shall be without cost to the county and shall be kept as a matter of public record. The books and supplements may be sold to the general public at the cost of printing and mailing each book.

Section 12. Fees to General Fund.—All fees and money, collected under the provisions of sections 4, 6, 8 and 13 by the secretary shall be placed in the General Fund.

Section 13. Fee Each Fifth Year.—Each owner of a brand of record beginning on January 1, 1974, shall pay the secretary a fee of five dollars (\$5) and a fee of five dollars (\$5) on January 1 of each fifth year thereafter. The secretary shall give a receipt for all such payments made and if any owner of a brand of record shall fail, refuse, or neglect to pay such fee by July 1 of each year in which it is due, such brand shall become forfeited and no longer carried in the record. Any such forfeited brand shall not be issued to any other person within a period of less than ten years following date of forfeiture.

Section 14. Tampering with Brand.—Any person who shall brand, attempt to brand, or cause to be branded the animals of another, or who shall efface, deface, or obliterate or attempt to efface, deface, or obliterate any brand upon any animal or animals of another, or who shall brand, attempt to brand, or cause to be branded the recorded brand of another on any animal shall be imprisoned in the penitentiary not to exceed two years or fined not to exceed one thousand dollars (\$1,000), or both.

Section 15. Effect of Prior Brands.—Any person having duly recorded a brand or mark used on live animals in the office of any county recorder of any county in Pennsylvania before the effective date

of this act, shall be presumed to be the owner of such brand or mark and shall be protected in the use of such brand or mark for a period of ninety days thereafter. In the event any two or more persons present for recording the same or similar brand, the one whose brand was recorded first with any county recorder shall be the one titled to record, use, and own such brand pursuant to this section. If such presumed owner fails to file application, facsimile, and recording fee as provided for in section 4 within the ninety-day period, title to such brand or mark which may have been acquired by such recording shall terminate as of midnight of the last day of the ninety-day period. If such presumed owner filed an application, facsimile, and recording fee as provided for in section 4 it shall be the duty of the secretary to give priority to examination of such application.

APPROVED—The 28th day of March, A. D. 1974.

MILTON J. SHAPP

The foregoing is a true and correct copy of Act of the General Assembly No. 48.

A handwritten signature in black ink, reading "C. McLaughlin Tucker". The signature is written in a cursive style with a large, prominent initial "C".

*Secretary of the Commonwealth.*