



LICA INFO SHEET #2 - OVERVIEW

- The *Livestock Identification and Commerce Act* received Royal Assent on May 24, 2006, was amended in December of 2007 and was proclaimed in force January 1, 2009.
- The *Livestock Identification and Commerce General Regulation* was proclaimed in force January 1, 2009.

Legislative review process

The *Livestock Identification and Commerce Act* and the *General Regulation* are the result of seven years of industry and industry-government consultation and co-operation. The various sectors of the beef cattle industry were actively engaged with each other and with Alberta Agriculture and Rural Development (ARD) and Livestock Identification Services Ltd. (LIS) throughout the entire process.

The industry organizations that participated and contributed to the successful outcome were:

- Alberta Beef Producers
- Western Stock Growers Association
- Alberta Cattle Feeders Association
- Feeders Associations of Alberta
- Alberta Auction Markets Association
- Alberta Milk
- Alberta Livestock Dealers and Order Buyers Association
- Representatives from packing industry, purebred sector and the lending community
- Representatives from the sheep, bison and diversified livestock industries

The various sectors of the beef cattle industry and government reached agreement on the broad policy objectives to be achieved through the enactment of the *Livestock Identification and Commerce Act*. Of particular importance to the beef cattle industry was that brand registration, regulation of sales transactions and livestock identification facilitate fair and efficient commerce and create value for those who pay brand registration, livestock inspection and licensing fees.

The Department of Agriculture and Rural Development is to be commended for the degree to which it engaged the beef cattle industry from 2001 to 2008 in the development and drafting of the *Livestock Identification and Commerce Act* and *General Regulation*. As a result of the co-operation between industry and government, the *Act* and *General Regulation* reflect the desired policy outcomes of both industry and government. This collaborative process should serve as a model for future legislative reviews.

Modernization of existing legislation

The *Livestock Identification and Commerce Act* consolidates and modernizes provisions of the *Brand Act*, the *Livestock Identification and Brand Inspection Act*, and the *Livestock and Livestock Products Act* and the regulations under those Acts. Bringing these Acts and Regulations together allows for a more effective and efficient legislative framework for industry and reflects changes in the industry over the past several decades.

The new legislation will help the day-to-day commerce of livestock operate in a more transparent, harmonized and consistent manner. The *Act* and the *General Regulation* will facilitate fair commerce, protect personal property, and promote the integrity of marketing within the livestock industry for the benefit of every sector of the industry.

Summary of the *Livestock Identification and Commerce Act (Act)*:

Brands

The Act continues the Brand Registry and its business as usual except for the following changes:

- *Application form*: There is a new application form for brands and honorary brands which allows for co-ownership and joint ownership of brands, the latter simplifying the transfer of brands upon death.
- *Cancellation of brands not transferred on death of brand owner*: On the death of a brand owner, the brand must be transferred or surrendered within two years of the date of death. The brand or honorary brand may be cancelled after the expiry of the two year period.
- *Brand registration fees*: The fee for registering a brand is \$220 and an honorary brand is \$275.

Sales Transactions

The provisions governing sales transactions have been expanded to better facilitate commerce.

- *Bills of sale and settlement statements*: The Act continues the requirement that sellers and dealers complete bills of sale or settlement statements and the same information is required to be included on these documents. Sellers and dealers can customize the form of their bills of sale and settlement statements to meet their needs and practices. Bill of sale forms are included at the back of the new Livestock Manifest book.
- *Disclosure of status by seller or dealer*: A person who sells livestock must now disclose whether that person is the owner of the livestock or a livestock dealer or livestock dealer's agent acting on behalf of the owner. This requirement relates to the provisions governing disclosure of livestock security interests.
- *Livestock security interest declaration*: Sellers must disclose any livestock security interest in the livestock or the dam of the livestock they are selling.
- *Protection against conversion lawsuits*: Purchasers who comply with the requirements of the Act have the benefit of the statutory bar against conversion lawsuits. This provides certainty to livestock transactions and will reduce the risk to the purchaser and to the financial service providers.
- *Protection of seller's sale proceeds paid to a dealer*: The Act requires livestock dealers receiving money from the sale of livestock supplied to them for sale to deposit those sale proceeds in a trust account to protect the seller's money. Under the former legislation these proceeds were "deemed" to be held in trust which did not provide adequate protection to the seller.
- *Prompt payment for livestock*: The Act requires all purchasers of cattle, horses and sheep to pay within two business days after possession or price discovery, whichever is later. This requirement now applies to all purchasers and not just livestock dealers.

Livestock Security Interest Declarations

- *Livestock security interest declaration*: Sellers must disclose any livestock security interest in the livestock or the dam of the livestock they are selling. This disclosure can be done either on the Alberta livestock manifest or on a separate document. Declaration forms are included at the back of the new Livestock Manifest book.

- Livestock security interest: Only livestock security interests are required to be disclosed on the declaration. A livestock security interest is a security interest registered under the *Personal Property Security Act* or the *Bank Act* (Canada) and is:
 - taken or reserved in livestock to secure payment of all or part of the purchase price of the livestock,
 - taken in livestock by a person who gave value for the purpose of enabling the owner of the livestock to acquire rights in the livestock, to the extent that the value was applied to acquire rights in the livestock, or
 - taken in livestock and other property by a person who gave value for the purpose of enabling the owner of the livestock to acquire rights in the livestock, to the extent that the value was applied to acquire rights in the livestock.
- Form of the Declaration: There is no prescribed form for the livestock security interest declaration however it must be:
 - in writing,
 - identify the owner of the livestock,
 - identify the livestock being sold,
 - disclose whether or not livestock or the dam of the livestock being sold is subject to a livestock security interest,
 - if there is a livestock security interest, identify the name and address of the holder of the livestock security interest,
 - if there is no livestock security interest, a statement that there is none,
 - be dated, and
 - be signed by the owner of the livestock (which includes a member of the feeder association and a borrower with a private lender or financial institution).

The livestock security declaration is provided:

- by the owner of the livestock,
- at or before the time the livestock is supplied or offered for sale, and
- to the person who owes the sale proceeds to the owner of the livestock.

This declaration can be provided:

- as part of the livestock manifest, or
- as a stand-alone document (either as a separate document, as part of a bill of sale or as part of a written agreement between the owner of the livestock and the person who will be paying the sale proceeds to the owner when the livestock is sold).

- Payment of the sale proceeds: When there is a livestock security interest in the livestock or the dam of the livestock, the sale proceeds are to be paid as follows:
 - for livestock security interests held by a feeder association (under the *Feeder Association Guarantee Act* R.S.A. 2000 c. F-11) – to the feeder association on account of the member;
 - for livestock security interests held by a private lender (i.e. FCC Alliance Partner, Viterra) – to the private lender on account of the borrower; and

- for livestock security interests held by a financial institution (i.e. bank, credit union, ATB etc) with whom the seller has a deposit account – to the financial institution and the owner of the livestock.

Livestock Transportation

The current requirements and exemptions with respect to the use of livestock manifests and permits are continued under the Act. However:

- Livestock manifests: Livestock manifests are no longer required to transport horses within Alberta except if the horse is being transported for sale or slaughter or to an inspection site.
- Livestock permits: Livestock permits continue to be required to transport livestock out of Alberta. In addition, livestock permits will be required for all livestock leaving country sales where livestock has been inspected, livestock markets, livestock assembling stations and abattoirs. Livestock permits are now valid for seven days from the date of issue or until the livestock are delivered to their destination, whichever is earlier.
- Property contiguous to or near the Alberta border: Livestock transported or driven directly to a destination that is owned or leased by the owner of the livestock and is contiguous to or near the Alberta border and approved by the Minister as part of the owner's livestock operation in Alberta does not have to be inspected prior to transport out of Alberta.
- Destination on livestock manifests and livestock permits: The Act and regulations recognize that the destination of the livestock may change while in transit and allows the owner of the livestock or the owner's agent to instruct the person transporting the livestock to deliver the livestock to a destination other than what is shown on the livestock manifest or the livestock permit. If the destination is changed, every copy of the livestock manifest or the livestock permit must be amended. If the destination is changed on a livestock permit, the person who was issued the livestock permit must notify the livestock inspector of the change in the destination within two business days.
- Special permits: The Act and regulations provides for annual and lifetime horse permits, cattle pedigree permits and rodeo and exhibition permits. These permits allow livestock to be transported out of Alberta more than once in a calendar year and, in the case of a lifetime horse permit, more than once during the life of the horse. These permits, however, cannot be used to transport these animals out of province for sale or slaughter or to an inspection site in Alberta for sale or slaughter.
- Out of province transportation documentation: The Act and regulations recognize the use of out of province livestock manifests and permits to transport livestock into Alberta. In order to benefit from the protection against conversion, the person selling out of province livestock in Alberta will be required to provide the purchaser with a livestock security interest declaration.
- Premise identification: Although not part of this Act and regulations but in anticipation of the enactment of premise identification regulations, a place has been provided on both the livestock manifest and the livestock permit for the premise ID number.

Livestock inspection

Livestock inspection is continued under the new Act with the provisions of the *Brand Identification and Brand Inspection Act* and Regulation being updated to reflect the needs of the various sectors of the livestock industry.

- Inspections and inspection sites: Livestock is inspected upon entry into inspection sites and for the purpose of transporting livestock out of Alberta. Livestock markets, livestock assembling stations, country sales, feedlots, and abattoirs are designated as inspection sites under the Act.

- Exemptions for feedlots and abattoirs: The policy exemptions for inspections on entry into feedlots and abattoirs previously set out in directives under the former legislation have been built into the Act.
- Livestock identification and ownership: The Act confirms that placing brands on livestock creates a presumption of ownership and that the inspection process is to assist in ownership determination. The purpose of livestock inspection is to confirm that the person in possession of the livestock is the livestock owner or the owner's agent or is otherwise lawfully entitled to be in possession of the livestock or the sale proceeds. In carrying out an inspection, the livestock inspector will examine the identifiers on the livestock and any livestock manifests, permits or sales documents necessary to make that determination.
- Acceptance of other livestock identifiers: The Act broadens the types of identifiers that can be used to identify livestock to include identification devices used under other industry programs, such as Canadian Cattle Identification Agency (CCIA) tags.
- Withholding livestock or settlement: There has been no change with respect to the procedure for withholding livestock or sale proceeds if the inspector is not satisfied as to the ownership of the livestock. However, as of January 1, 2009, if held sale proceeds are not claimed within two years from the date of the sale, the unclaimed proceeds will be deposited into the Livestock Assurance Fund.
- Inspection fees: Inspection fees remain \$1.00 per head for cattle, have increased to \$2.00 per head for horses and are \$10.00 per head for a special permit. The minimum inspection fee is now \$20.00 for all inspections except inspections for lifetime horse permits. The inspection fee for a lifetime horse permit is \$30.00 per head. If livestock is transported out of Alberta for grazing and returned to Alberta within the same calendar year, the person who is issued the livestock permit is eligible to apply for a 50 per cent reduction in the amount of the inspection fee paid when the livestock were inspected for transportation out of Alberta.

Livestock dealers

Licensing of livestock dealers is continued under the Act.

- Dealing in livestock: The definition of dealing in livestock remains essentially the same as it was under the *Livestock Products and Livestock Products Act*.
- Dealer licensing: Livestock dealers and livestock dealer's agents continue to be required to be licensed and provide security as part of their licensing requirements. The amount of security a dealer is required to provide has increased under the Act. As under the previous legislation, those who custom feed and market livestock on behalf of their customers must be licensed as a livestock dealer.
- Notification of non-payment: The Act continues the requirement that a seller must notify LIS if a livestock dealer has not paid for the livestock within two business days. Compliance with this provision is a requirement for sharing in the proceeds of a livestock dealer's security or making a claim against one of the assurance funds.
- Livestock assurance funds: The Act continues to protect sellers of livestock against non-payment by livestock dealers through the Livestock Assurance Fund, currently the Livestock Patron's Assurance Fund. The Livestock Dealers' Assurance Fund will also be continued.
- Dealer education: An education component has been added as a requirement for dealer licensing and will be developed with dealer and producer input in 2009.

Forms, records and record retention

- *Forms*: All of the existing forms have been updated to reflect the changes in the Act.
- *Standardized content of documentation*: The Act lays the foundation for standardizing the content of documents commonly used in livestock transactions across Canada, which include bills of sale, settlement statements and livestock security interest declarations.
- *Retention of livestock records*: All bills of sale, settlement statements, livestock security interest declarations, livestock manifests and livestock permits must be kept for 10 years specifically to assist with livestock disease investigations and traceback.

Value of livestock identification and commerce legislation

The various components of the Act benefit the livestock industry as a whole by deterring theft, providing livestock identification, enhancing traceability, providing enhanced evidence to support a claim for ownership, facilitating livestock commerce and market access and enhancing the confidence of purchasers and lenders. Taken together, the provisions of the Act reduce the risk of loss within the industry.

Further information and education

Copies of the Act and regulation can be obtained from the Queen's Printer at www.qp.gov.ab.ca. Information on the requirements of the Act and Regulations will be available on the following websites:

Livestock Identification Services Ltd. www.lis-alberta.com

Agriculture and Rural Development www.agric.gov.ab.ca