

VERMONT

BRAND REGISTRATION REGULATIONS

PROMULGATED PURSUANT TO VSA T6, CHAPTER 205, SECTION 4012

I. DEFINITIONS

1. "Livestock" means
 - a. All cattle or animals of the bovine species.
 - b. All horses, mules, burrows, and asses or animals of the equine species.
 - c. All swine or animals of the porcine species.
 - d. All goats or animals of the caprine species.
 - e. All sheep or animals of the ovine species.
2. "Department" means the State of Vermont Department of Agriculture.
3. "Commissioner" means the Commissioner of Agriculture.
4. "Statewide" means that each recorded brand is recognized as legal in every part of Vermont.

II. OWNER MAY ADOPT A BRAND OR MARK OR BRAND AND MARK WHICH MUST BE LEGALLY RECORDED.

1. Every person, firm, or corporation owning animals in the State of Vermont may design and adopt a brand or mark or brand and mark with which to brand animals with a distinguishing and identifying mark.
2. It shall be unlawful for any owner of such animals to brand or cause to be branded such animals with a brand not at the time of legal record as provided in VSA T6, Chap. 205 Sec. 4011-4015.

III. POWERS AND DUTIES OF THE COMMISSIONER OF AGRICULTURE.

1. The Commissioner is empowered and authorized to carry out the terms and provisions of VSA T6, Chap. 205, Sec. 4011-4015, inclusive, and for that purpose, to make such rules and regulations not inconsistent therewith, and to appoint such agents, under his direction, as he deems necessary therefore.

IV. APPLICATION FOR RECORDING OF BRAND.

1. Any owner of animals in Vermont desiring to adopt and use thereupon any brand as provided in VSA T6 Chap. 205, Sec. 4011-4015, inclusive, shall before doing so, forward to the department an application on a form approved and provided by the department for that purpose, for the recording of such brand, and receive a certificate of recordation as provided in VSA T6, Chap. 205, Sec. 4011-4015.
2. Every application shall be in writing and every application shall:
 - a. Include a drawing, exact except as to size, of the brand and location upon the animal or animals concerned where such brand is desired or intended to be used.

- b. Include a statement of the kinds of animals upon which the brand is to be used.
- c. Include the full name, residence and post office of the applicant.

V. ONE BRAND TO BE RECORDED FOR EACH OWNER, BRANDS FOR SEPARATE LIVESTOCK UNITS IDENTICAL OR SIMILAR BRANDS.

- 1. Only one brand shall be awarded or recorded for each owner of animals, but the owner or owners of separate and distinct livestock units may within the discretion of the commissioner, record one brand for use in connection with and for each such separate and distinct livestock unit.
- 2. No brand shall be recorded or used which is identical with or in the opinion of the commissioner, so similar to any brand previously recorded and remaining of legal record, or any abandoned brand which has not been abandoned for one year as provided in VSA T6, Chap. 205, Sec. 4011-4015, as to be liable to cause confusion as to the identity or ownership of animals, or which can be readily used to obliterate or alter any legally recorded brand already in use in this state.

VI. RECORDING OF CATTLE BRANDS.

- 1. Brands for cattle shall be recorded for use in the following positions only:
 - a. The hip on the right hand side;
 - b. The hip on the left hand side;
 - c. The shoulder on the left hand side;
 - d. The shoulder on the right hand side;
- 2. Nothing in this Section shall be construed to preclude the use of date brands.

VII. AWARD OF BRAND UPON RECEIPT OF APPLICATION; CONTENTS OF RECORDING CERTIFICATE; PRECEDENCE OF APPLICATIONS; REFUSAL OF COMMISSIONER OF AGRICULTURE TO RECORD.

- 1. Upon receipt of an application as set forth in VSA T6, Chap. 205, Sec. 4011-4015, the commissioner shall cause the records of previously recorded brands, remaining of legal record, or not abandoned for more than 1 year, to be searched and, if the brand applied for is recordable under provisions of VSA, T6, Chap. 205, Sec. 4011-4015, award the brand set forth in the application to the applicant and proceed to record the same.
- 2. All brands will be statewide in scope; recognized in every county and distinct from every other brand.
- 3. No brand applied for shall be awarded or recorded until of the lapse of two legal business days subsequent to the receipt of the application for the same at the office of the department.
- 4. In all cases where, under the terms of VSA, T6, Chap. 205, Sec. 4011-4015, inclusive, the brand or brands applied for cannot legally be awarded by the department to the applicant, the applicant shall promptly be notified by the commissioner.

5. Applications for the awarding and recording of brands shall take precedence in chronological order of their receipt at the office of the department.

5. The commissioner may, at his discretion, refuse to award or record a brand known to be in use at the time in this state, or in an abutting county of an adjoining state, by a person or persons other than the applicant therefore.

VIII. RECORDING OF BRANDS BY COMMISSIONER OF AGRICULTURE; PROCEDURES; CERTIFICATE TO BE TRANSMITTED TO OWNER; EVIDENTIARY EFFECT OF CERTIFICATE.

1. Upon the awarding of a brand or brands as provided VSA T6, Chap. 205, Sec. 4011-4015, inclusive, the department shall immediately proceed to record the same.

2. Such recording shall consist of the transcribing upon a suitable and permanent record, which shall be a public record and prima facie evidence of the facts contained therein, designed and approved by the department for that purpose, of:

- a. A facsimile, except as to scale, of the brand awarded.
- b. The location upon the animal or animals concerned of the brand awarded.
- c. The date of award.
- d. The date of application.
- e. The kind of animals upon which the brand is intended to be used.

3. The department shall promptly cause to be prepared and sent to the person to whom the award is made a certificate containing the same entries as those set forth upon the permanent record of the department described in subsection 2 and certified to by the department or its duly authorized agent. Such a certificate shall have the legal status of similar certificates as set forth in VSA T6, Chap. 205, Sec. 4011-4015.

IX. FEES FOR RECORDING OF BRANDS.

1. The recording or mark or brands - \$10.00.
2. The recording of instruments transferring ownership of brands - \$10.00.
3. Certified copy of a record - ~~\$1.00~~^{5.00}.
4. Rerecording of brand or mark - \$5.00.

X. EVIDENTIARY EFFECT OF CERTIFICATES OF RECORDATION.

All certificates of recordation of brands furnished by the department under the provisions of VSA T6, Chap. 205, Sec. 4011-4015, inclusive, shall be prima facie evidence of ownership of all animals of the kind or kinds bearing the brand or brands specified and as set forth therein, and such certificates shall be taken as evidence of such ownership in all suits of law or in equity, or in any criminal proceedings, when the title to animals in this state is involved or necessary to be proven.

XI. BRANDS SUBJECT TO SALE, ASSIGNMENT, TRANSFER, SECURITY AGREEMENT, LIEN, DEVISE AND DESCENT; RECORDING OF INSTRUMENTS, TRANSFERRING OWNERSHIP, NOTICE TO THE COMMISSIONER OF AGRICULTURE OF EXISTENCE OF SECURITY AGREEMENT, ASSIGNMENT OR LIEN.

1. Any brand, awarded and recorded and remaining of record in accordance with the terms of VSA T6, Chap. 205, Sec. 4011-4015, inclusive, including those transferred legally as provided in this section, shall be the property of the person or persons to whom they stand of record as provided in VSA T6, Chap. 205, Sec. 4011-4015, inclusive, and shall be subject to sale, assignment, transfer, security agreement or lien, devise and descent the same as other personal property.

2. Instruments of writing evidence such sale, assignment, transfer, security agreement, lien, devise or descent shall be in that form, as to text, signatures, witnesses, acknowledgments or certifications, required by statutes, in the case of the kind of instrument concerned; but the department may secure such competent legal advice or rulings, and require such supporting evidence as it deems necessary, as to such instruments of writing, being in fact authentic and in due legal form, before approving and recording the same, as provided in VSA T6, Chap. 205, Sec. 4011-4015.

3. Instruments in writing evidencing the transfer of ownership of any brand shall, after approval, be recorded in the department and shall not be legally binding as to any party other than the transferor and transferee until so approved by the commissioner and recorded.

4. Recordings of such instruments shall have the same force and effect as to third parties as the recording of instruments affecting the sale, assignment, transfer, devise or descent of other personal property. The original, or a certified copy of any such instrument, may be introduced in evidence the same as provided for similar instruments affecting personal property, and the record of such instrument or instruments of transfer, or the transcript thereof certified by the custodian of such record, may be read in evidence without further proof.

5. Whenever any brand of record, in accordance with the terms of VSA, T6, Chap. 205, Sec. 4011-4015, inclusive, becomes the subject of or is included in, any security agreement, provisional assignment or legal lien, the second party, provisional assignee or lien holder may notify the commissioner in writing as to the existence and conditions of such security agreement, provisional assignment or lien after the receipt of such written notice the department shall not transfer such brand, other than to such secured party, provisional assignee, or lien holder until there is filed with the department satisfactory legal evidence that such security agreement, provisional assignment or lien has been legally satisfied and removed.

6. No transfer or change, or partial, joint or complete ownership of any brand, under the provisions of this section, shall be construed to grant or recognize any change in the method or area of its use, from that authorized for the same at the time of recording, or subsequent thereto, but prior to such transfer or change of ownership, nor shall it waive or modify the recording requirements set forth in VSA T6, Chap. 205, Sec. 4011-4015.

XII. UNLAWFUL USE OF BRAND OR POSITION ON ANIMAL OR IN UNAUTHORIZED AREA; APPLICATION FOR CHANGE OF POSITION; AREA OF USE; UNLAWFUL OBLITERATION, DEFACEMENT, REMOVAL OF RECORDED BRANDS FROM ANIMALS.

1. It shall be unlawful for the owner or owners of any legally recorded brand, recorded under the provisions of VSA T6, Chap. 205, Sec. 4011-4015, inclusive, to use the same on any position or positions, on any animal or animals, or in any area or areas, other than those authorized in writing at the time of such brand was recorded, or subsequent thereto, by the department. The commissioner may, on the written application of the owner or owners of any legally recorded brand, authorize in writing a change of position, or new positions for the application of the same, a change or enlarge the area in which it may be used, if in the opinion of the commissioner, such change or changes in position or area of use will not jeopardize or injure the rights or property of the owner or owners of any other brand remaining of legal record.

2. Any application for a change in position, or new positions, or changes in the area of use as provided in subsection 1 shall set forth a valid and sufficient reason or reasons for the same, the department may require such supporting evidence for the same, as it deems necessary to establish the facts.

3. It is unlawful for any person to obliterate, disfigure, extend dispose, or remove from any animal a brand that is recorded pursuant to the provisions of VSA T6, Chap. 205, Sec. 4011-4015, inclusive.

XIII. RECORDING OF BRANDS, MARKS; APPLICATION; FEE; NOTICE BY THE COMMISSIONER OF AGRICULTURE TO OWNERS; ABANDONMENT BY FAILURE TO RERECORD; CERTIFICATES OF RERECORDATION; LIMITATION ON RECORDING OF NEW BRANDS DURING THE RERECORDING PERIOD.

1. Any owner of a brand or brand and mark of record under the provisions of VSA, T6, Chap. 205, Sec. 4011-4015, inclusive, including brands or marks transferred under the terms of Regulation XIII 3, desiring legally to continue use of same beyond the prescribed dates, shall within 60 days prior to January 1, at end of each five-year period make application to the commissioner for rerecording of the same.

2. The application shall be made in writing and accompanied by any established rerecording fee.

3. The commissioner shall notify every owner of a brand or brand and mark of legal record in its office, including the owners of brands and marks transferred, at least 60 days prior to January 1, at the end of each five-year period, of his right to rerecord the same as provided in this Section. The notice shall be in writing and shall be sent by mail to each such owner at his last address of record in the office of the department. Such notice shall be complete at the expiration of 60 days from the date of its mailing by the department.

4. The commissioner may also advertise the approval of any rerecording period in such names and at such times as it deems advisable.

5. Any or all brands or brands and marks for the rerecording of which the owners have not applied as provided for in this section by January 1, of any five-year period succeeding that date including all brands and marks of records as transferred as provided in Regulation XIII 3, shall be deemed abandoned and no longer of legal record. Brands or brands and marks thus abandoned shall not be awarded or recorded by the department to persons other than those abandoning the same until one year shall have elapsed from the date of such abandonment and the awarding and recording of abandoned brands and marks to any person shall be in accord with the terms of VSA T6, Chap.205, Sec. 4011-4015, inclusive.

6. The commissioner shall furnish the legal owners of any brand or brand and mark rerecorded under the provisions of this section with a certificate setting forth the fact of such rerecordation.

7. No new brands may be recorded during the 60 days of a rerecording period unless in the opinion of the commissioner undue hardship would be caused the applicant.