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**SUBSTITUTE SENATE BILL 5959**

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**State of Washington 66th Legislature 2019 Regular Session**

**By** Senate Ways & Means (originally sponsored by Senator Warnick)

AN ACT Relating to livestock identification; amending RCW 16.57.015, 16.57.020, 16.57.025, 16.57.160, 16.57.220, 16.57.450, 16.58.050, 16.58.130, 16.65.080, 16.65.037, 16.65.090, and 16.65.170; and adding a new section to chapter 16.57 RCW.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

**Sec.**  RCW 16.57.015 and 2011 1st sp.s. c 21 s 51 are each amended to read as follows:

(1) The director shall establish a livestock identification advisory committee. The committee shall be composed of ((~~six members appointed by the director. One member shall represent each of the following groups: Beef producers, public livestock market operators, horse owners, dairy farmers, cattle feeders, and meat processors~~)) twelve voting members appointed by the director as follows: Two beef producers, two cattle feeders, two dairy producers, two livestock market owners, two meat processors, and two horse producers. Organizations representing the groups represented on the committee may submit nominations for these appointments to the director for the director's consideration. No more than two members at the time of their appointment or during their term may reside in the same county. Members may be reappointed and vacancies must be filled in the same manner as original appointments are made. As used in this subsection, "meat processor" means a person licensed to operate a slaughtering establishment under chapter 16.49 RCW or the federal meat inspection act (21 U.S.C. Sec. 601 et seq.). In making appointments, the director shall solicit nominations from organizations representing these groups statewide. The committee shall elect a member to serve as chair of the committee. The committee must meet at least twice a year. The committee shall meet at the call of the director, chair, or a majority of the committee. A quorum of the committee consists of a majority of members. If a member has not been designated for a position set forth in this section, that position may not be counted for purposes of determining a quorum. A member may appoint an alternate who meets the same qualifications as the member to serve during the member's absence. The director may remove a member from the committee if that member has two or more unexcused absences during a single calendar year.

(2) The purpose of the committee is to provide advice to the director regarding livestock identification programs administered under this chapter and regarding inspection fees and related licensing fees. The director shall consult the committee before adopting, amending, or repealing a rule under this chapter or altering a fee under RCW 16.58.050, 16.65.030, 16.65.037, or 16.65.090. If the director publishes in the state register a proposed rule to be adopted under the authority of this chapter and the rule has not received the approval of the advisory committee, the director shall file with the committee a written statement setting forth the director's reasons for proposing the rule without the committee's approval.

(3) The members of the advisory committee serve three-year terms. However, the director shall by rule provide shorter initial terms for some of the members of the committee to stagger the expiration of the initial terms. The members serve without compensation. The director may authorize the expenses of a member to be reimbursed if the member is selected to attend a regional or national conference or meeting regarding livestock identification. Any such reimbursement shall be in accordance with RCW 43.03.050 and 43.03.060.

**Sec.**  RCW 16.57.020 and 2003 c 326 s 4 are each amended to read as follows:

The director shall be the recorder of livestock brands and such brands shall not be recorded elsewhere in this state. Any person desiring to record a livestock brand shall apply on a form prescribed by the director. The application shall be accompanied by a facsimile of the brand applied for and a one hundred ((~~twenty~~)) thirty-two dollar recording fee. The director shall, upon his or her satisfaction that the application and brand facsimile meet the requirements of this chapter and its rules, record the brand. The director must establish a staggered brand record renewal schedule and may adopt an annual or biennial renewal schedule if necessary. The application to transfer a brand shall be accompanied by a notarized form that includes a facsimile of the brand, a description, information about the current owners, and a twenty-seven dollar and fifty cent transfer fee. If the application to transfer a brand is for a legacy brand, the application must be accompanied by a one hundred dollar transfer fee. For purposes of this section, "legacy brand" means a brand that has been in continuous use for at least twenty-five years.

**Sec.**  RCW 16.57.025 and 2003 c 326 s 6 are each amended to read as follows:

(1) The director may enter into agreements with Washington state licensed and accredited veterinarians, who have been certified by the director, to perform livestock inspection.

(2) The department must maintain a list of field livestock inspectors who are certified to perform livestock inspection. The list must be divided into at least six geographic regions of the state. The list must be updated quarterly and must be made available to the public through electronic media and by mail when requested.

(3) All individuals applying for certification as a field livestock inspector under this section must complete training provided by the department at the discretion of the director. Training must include, but is not limited to, the:

(a) Reading of printed brands;

(b) Reading of brands or other marks on animals, including the location of brands on animals;

(c) Reading of a microchip or other electronic official individual identification;

(d) Completion of official documents; and

(e) Review of satisfactory ownership documents.

(4) In order to qualify, an individual must submit an application to the director that includes:

(a) The full name, address, telephone number, and email address of the individual applying for certification;

(b) The applicant's Washington state veterinary license number, if the applicant is a veterinarian;

(c) The geographic area in which the applicant will issue inspection certificates for livestock;

(d) A statement describing the applicant's experience with large animals, especially cattle and horses; and

(e) A brief statement indicating that the applicant is requesting certification to issue inspection certificates for cattle, horses, or both.

(5) Fees for livestock inspection performed by a certified veterinarian or field livestock inspector shall be collected by the veterinarian or field livestock inspector and remitted to the director. Veterinarians and field livestock inspectors providing livestock inspection may charge a fee for livestock inspection that is in addition to and separate from fees collected under RCW 16.57.220. The director may adopt ((~~rules necessary to implement livestock inspection performed by veterinarians and may adopt~~)) fees to cover the cost associated with certification of veterinarians and field livestock inspectors.

(6) A veterinarian or field livestock inspector certified to perform livestock inspection under this section shall not be considered an employee of the department.

(7)(a) The director may suspend or revoke a veterinarian's or field livestock inspector's certification to issue inspection certificates if the veterinarian or field livestock inspector knowingly:

(i) Makes or acquiesces in false or inaccurate statements on livestock inspection certificates regarding:

(A) The date or location of the inspection;

(B) The marks or brands on the livestock inspected;

(C) The owner's name; or

(D) Any other statement about the livestock inspected.

(ii) Fails to properly verify the ownership status of the animal before issuing an inspection certificate.

(iii) Issues an inspection certificate without actually conducting an inspection of the livestock.

(iv) Fails to submit inspection fees and certificates issued to the director within thirty days from the date of issue.

(b) Actions under this section must be taken in accordance with chapter 34.05 RCW.

**Sec.**  RCW 16.57.160 and 2015 c 197 s 2 are each amended to read as follows:

(1) The director may adopt rules:

(a) Designating any point for mandatory inspection of cattle or horses or the furnishing of proof that cattle or horses passing or being transported through the point have been inspected or identified and are lawfully being transported;

(b) Providing for issuance of individual horse and cattle identification certificates or other means of horse and cattle identification;

(c) Designating the documents that constitute other satisfactory proof of ownership for cattle and horses. A bill of sale may not be designated as documenting satisfactory proof of ownership for cattle; and

(d) Designating when inspection certificates, certificates of permit, or other transportation documents required by law or rule must designate a physical address of a destination. Cattle and horses must be delivered or transported directly to the physical address of that destination.

(2) The director may establish a process to electronically report transactions involving ((~~unbranded dairy~~)) cattle under RCW 16.57.450 as an alternative to the mandatory cattle inspections required by department rule adopted pursuant to this section.

(3) A self-inspection certificate may be accepted as satisfactory proof of ownership for cattle if the director determines that the self-inspection certificate, together with other available documentation, sufficiently establishes ownership. Self-inspection certificates completed after June 10, 2010, are not satisfactory proof of ownership for cattle.

(4)(a) Upon request by a milk producer licensed under chapter 15.36 RCW, the department must issue an official individual identification tag to be placed by the producer before the first point of sale on bull calves and free-martins (infertile female calves) under thirty days of age. The fee for each tag is the cost to the department for manufacture, purchase, and distribution of the tag plus the applicable beef commission assessment. As used in this subsection (4), "green tag" means the official individual identification issued by the department.

(b) Transactions involving unbranded dairy breed bull calves or free-martins (infertile female calves) not being moved or transported out of Washington are exempt from inspection requirements under this chapter only if:

(i) The animal is under thirty days old and has not been previously bought or sold;

(ii) The seller holds a valid milk producer's license under chapter 15.36 RCW;

(iii) The sale does not take place at or through a public livestock market or special sale authorized by chapter 16.65 RCW;

(iv) Each animal is officially identified as provided in (a) of this subsection; and

(v) A certificate of permit and a bill of sale listing each animal's green tag accompanies the animal to the buyer's location. These documents do not constitute proof of ownership under this chapter.

(c) All fees received under (a) of this subsection, except for the beef commission assessment, must be deposited in the animal disease traceability account in the agricultural local fund created in RCW 43.23.230.

**Sec.**  RCW 16.57.220 and 2010 c 66 s 7 are each amended to read as follows:

(1) Except as provided for in RCW 16.65.090 and otherwise in this section, the fee for livestock inspection is ((~~one dollar and sixty cents~~)) four dollars per head for cattle and three dollars and ((~~fifty~~)) eighty-five cents for horses ((~~or the time and mileage fee, whichever is greater~~)), with a call out fee of twenty dollars.

(2) When cattle are identified with the owner's brand, electronic official individual identification, or other form of identification specified by the director by rule, the fee for livestock inspection is one dollar and ((~~ten~~)) twenty-one cents per head ((~~or the time and mileage fee, whichever is greater~~)), with a call out fee of twenty dollars.

(3) No inspection fee is charged for a calf that is inspected before moving out-of-state under an official temporary grazing permit if the calf is part of a cow-calf unit and the calf is identified with the owner's Washington-recorded brand or other form of identification specified by the director by rule.

(4) The fee for inspection of cattle at a processing plant with a daily capacity of no more than five hundred head of cattle where the United States department of agriculture maintains a meat inspection program is four dollars and forty cents per head, with a call out fee of twenty dollars.

(5) When a single inspection certificate is issued for thirty or more horses belonging to one person, the fee for livestock inspection is two dollars and twenty cents per head ((~~or the time and mileage fee, whichever is greater~~)), with a call out fee of twenty dollars.

(6) The fee for individual identification certificates is twenty-two dollars for an annual certificate and sixty-three dollars for a lifetime certificate ((~~or the time and mileage fee, whichever is greater~~)), with a call out fee of twenty dollars. However, the fee for an annual certificate listing thirty or more animals belonging to one person is five dollars and fifty cents per head ((~~or the time and mileage fee, whichever is greater~~)), with a call out fee of twenty dollars. A lifetime certificate shall not be issued until the fee has been paid to the director.

(7) The minimum fee for the issuance of an inspection certificate by the director is five dollars and fifty cents. The minimum fee does not apply to livestock consigned to a public livestock market or special sale or inspected at a cattle processing plant.

((~~(8) For purposes of this section, "the time and mileage fee" means seventeen dollars per hour and the current mileage rate set by the office of financial management.~~))

**Sec.**  RCW 16.57.450 and 2015 c 197 s 1 are each amended to read as follows:

(1)(a) The director may establish an electronic cattle transaction reporting system as a mechanism for reporting transactions involving ((~~unbranded dairy~~)) cattle to the department. The system may be used as an alternative to mandatory inspections under RCW 16.57.160. ((~~However, it may only be used as an alternative for unbranded dairy cattle that are individually identified through an identification method authorized by the department. All other livestock transactions are subject to the provisions of RCW 16.57.160~~)) The system may be used to report the inspection of animals that are being moved out-of-state.

(b) ((~~Pursuant to criteria established by the director by rule,~~)) A cattle transaction described in (a) of this subsection, that would otherwise trigger a mandatory inspection under rules adopted pursuant to RCW 16.57.160, is eligible to report electronically under this section.

(c) Transactions that may be reported electronically include any sale, trade, gift, barter, or any other transaction that constitutes a change of ownership of ((~~unbranded dairy~~)) cattle.

(2) A person may not electronically report change of ownership transactions involving ((~~unbranded dairy~~)) cattle under this section without first obtaining an electronic cattle transaction reporting license from the director. Applicants for an electronic cattle transaction reporting license must submit an application to the department on a form provided by the department and must include an application fee. The amount of the application fee must be established by the director by rule consistent with subsection (8) of this section.

(3) All holders of an electronic cattle transaction reporting license must transmit to the department a record of each transaction containing the unique identification of each individual animal included in the transaction as assigned through a department-authorized identification method. The transmission required under this subsection must be completed no more than twenty-four hours after a qualifying transaction involving ((~~unbranded dairy~~)) cattle.

(4) All holders of an electronic cattle transaction reporting license must keep accurate records of all transactions involving ((~~unbranded dairy~~)) cattle and make those records available for inspection by the department upon reasonable request during normal business hours. All records of the licensed property must be retained for at least three years.

(5)(a) The director may enter the property of the holder of an electronic cattle transaction reporting license at any reasonable time to conduct examinations and inspections of cattle and any associated records for movement verification purposes. For purposes of this section, "any reasonable time" means during regular business hours or during any working shift.

(b) It is unlawful for any person to interfere with an examination and inspection of cattle and records performed under this subsection.

(c) If the director is denied access to a property or cattle for the purposes of this subsection, or a person fails to comply with an order of the director, the director may apply to a court of competent jurisdiction for a search warrant. To show that access is denied, the director must file with the court an affidavit or declaration containing a description of all attempts to notify and locate the owner or owner's agent and secure consent.

(6)(a) The director may deny, suspend, or revoke an electronic cattle transaction reporting license issued under this section if the director finds that an electronic cattle transaction reporting license holder:

(i) Fails to satisfy the reporting requirements as provided in this section;

(ii) Knowingly makes false or inaccurate statements;

(iii) Has previously had an electronic cattle transaction reporting license revoked;

(iv) Denies entry to property, cattle, or records as provided in subsection (5) of this section; or

(v) Violates any other provision of this chapter or any rules adopted under this chapter.

(b) Any action taken under this subsection must be consistent with the provisions of chapter 34.05 RCW, the administrative procedure act.

(c) If an electronic cattle transaction reporting license is denied, suspended, or revoked, then the mandatory cattle inspection requirements under RCW 16.57.160 apply to any future transactions.

(7) The department must submit an annual report to the legislature, consistent with RCW 43.01.036, that documents all examinations and inspections of cattle and records of electronic cattle transaction reporting license holders performed by the department either since the department's last report or since the adoption of the electronic cattle transaction reporting system. The annual report must also include details regarding any actions the department took following the examinations and inspections. All reports required under this section must be submitted by July 31st of each year.

(8)(a) The director may adopt rules:

(i) Designating the conditions of licensure under this section and the use of the electronic cattle transaction reporting system authorized by this section;

(ii) Establishing an initial application fee and a license renewal fee applicable to the electronic cattle transaction reporting license; and

(iii) Establishing any fees that must be paid by the holder of an electronic cattle transaction reporting license for reporting cattle transactions through the electronic cattle transaction reporting system.

(b) All fees established under this section must, as closely as practicable, cover the cost of the development, maintenance, fee collection, and audit and administrative oversight of the electronic cattle transaction reporting system.

**Sec.**  RCW 16.58.050 and 2003 c 326 s 49 are each amended to read as follows:

(1) The application for an annual license to engage in the business of operating one or more certified feed lots shall be accompanied by a license fee of ((~~eight hundred fifty~~)) nine hundred thirty-five dollars.

(2) Upon approval of the application by the director and compliance with the provisions of this chapter and rules adopted under this chapter, the applicant shall be issued a license or license renewal. The director shall conduct an inspection of all cattle and their corresponding ownership documents prior to issuing an original license. The inspection fee is the higher of the current inspection fee per head of cattle or time and mileage as set forth in RCW 16.57.220.

**Sec.**  RCW 16.58.130 and 2006 c 156 s 2 are each amended to read as follows:

Each licensee shall pay to the director a fee of ((~~twenty-five~~)) twenty-eight cents for each head of cattle handled through the licensee's feed lot. The licensee must pay a call out fee of twenty dollars to the department for each day and for each livestock inspector, certified veterinarian, or field livestock inspector who performs inspections at each certified feed lot. Payment of the fees shall be made by the licensee on a monthly basis. Failure to pay as required shall be grounds for suspension or revocation of a certified feed lot license. The director shall not renew a certified feed lot license if a licensee has failed to make prompt and timely payments.

**Sec.**  RCW 16.65.080 and 2003 c 326 s 70 are each amended to read as follows:

(1) The director may deny, suspend, or revoke a license when the director finds that a licensee (a) has misrepresented titles, charges, numbers, brands, weights, proceeds of sale, or ownership of livestock; (b) has attempted payment to a consignor or the department by a check the licensee knows not to be backed by sufficient funds to cover such check; (c) has violated any of the provisions of this chapter or rules adopted under this chapter; (d) has violated any laws of the state that require inspection of livestock for health or ((~~ownership~~)) identification purposes; (e) has violated any condition of the bond, as provided in this chapter.

(2) Upon notice by the director to deny, revoke, or suspend a license, a person may request a hearing under chapter 34.05 RCW.

(3) The director may issue subpoenas to compel the attendance of witnesses, ((~~and/or~~)) or the production of books or documents anywhere in the state. The applicant or licensee shall have opportunity to be heard, and may have such subpoenas issued as he or she desires. Subpoenas shall be served in the same manner as in civil cases in the superior court. Witnesses shall testify under oath which may be administered by the director. Testimony shall be recorded, and may be taken by deposition under such rules as the director may prescribe.

**Sec.**  RCW 16.65.037 and 2003 c 326 s 66 are each amended to read as follows:

(1) Any license issued under the provisions of this chapter shall only be valid at the location and for the sales day or days for which the license was issued.

(2) The license fee shall be based on the average gross sales volume per official sales day of a market in the previous twelve months or, for a new market, the projected average gross sales per official sales day of the market during its first year's operation.

(a) The license fee for markets with an average gross sales volume up to and including ten thousand dollars is one hundred ((~~fifty~~)) sixty-five dollars.

(b) The license fee for markets with an average gross sales volume over ten thousand dollars and up to and including fifty thousand dollars is three hundred thirty dollars.

(c) The license fee for markets with an average gross sales volume over fifty thousand dollars is four hundred ((~~fifty~~)) ninety-five dollars.

(3) Any applicant operating more than one public livestock market shall make a separate application for a license to operate each public livestock market, and each application shall be accompanied by the appropriate license fee.

**Sec.**  RCW 16.65.090 and 2003 c 326 s 71 are each amended to read as follows:

((~~The director shall provide for livestock inspection.~~)) When livestock inspection is required the licensee shall collect from the consignor and pay to the department an inspection fee, as provided by law, for each animal inspected. However, if in any one sale day the total fees collected for inspection do not exceed one hundred fifty dollars, then the licensee shall pay one hundred fifty dollars for the inspection services. The licensee must pay a call out fee of twenty dollars to the department for each day and for each livestock inspector, certified veterinarian, or field livestock inspector who performs inspections at a public livestock market.

**Sec.**  RCW 16.65.170 and 2003 c 326 s 74 are each amended to read as follows:

The licensee shall keep accurate records which shall be available for inspection to all parties directly interested therein, and the records shall contain the following information:

(1) The date on which each consignment of livestock was received and sold.

(2) The name and address of the buyer and seller of the livestock.

(3) The number and species of livestock received and sold.

(4) The marks ((~~and~~)), brands, and identification on the livestock.

(5) All statements of warranty or representations of title material to, or upon which, any sale is consummated.

(6) The gross selling price of the livestock with a detailed list of all charges deducted therefrom.

These records shall be kept by the licensee for one year subsequent to the receipt of such livestock.

NEW SECTION. **Sec.**  A new section is added to chapter 16.57 RCW to read as follows:

The department shall submit a livestock inspection program report pursuant to RCW 43.01.036 by September 1, 2020, and annually thereafter, to the appropriate committees of the legislature having oversight over agriculture and fiscal matters. The report must also be submitted to the livestock identification advisory committee created in RCW 16.57.015. The report must include amounts collected, a report on program expenditures, and any recommendations for making the program more efficient, improving the program, or modifying livestock inspection fees to cover the costs of the program. The report must also address the financial status of the program, including whether there is a need to review fees so that the program continues to be supported by fees.

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