

HOUSE BILL REPORT

ESHB 2651

As Passed Legislature

Title: An act relating to disclosure of animal information.

Brief Description: Regarding disclosure of animal information.

Sponsors: By House Committee on Economic Development, Agriculture & Trade (originally sponsored by Representatives Pettigrew, Kristiansen, Haigh, Buri, Walsh, Linville, Kretz, Grant, Cox, Newhouse, Holmquist, Blake, Armstrong and Springer).

Brief History:

Committee Activity:

Economic Development, Agriculture & Trade: 1/30/06, 2/1/06 [DPS].

Floor Activity:

Passed House: 2/11/06, 95-0.

Passed Senate: 3/1/06, 44-0.

Passed Legislature.

Brief Summary of Engrossed Substitute Bill

- Exempts from public disclosure the information submitted by an individual or business for participation in a state or national animal identification system, except for information used in reportable animal health investigations once they are complete.
- Clarifies that disclosure to government officials of information submitted by an individual or business for participation in a state or national animal identification system is not public disclosure.
- Exempts from public disclosure the results of non-reportable animal disease testing done at the owner's request that can be identified to a particular business or individual.

HOUSE COMMITTEE ON ECONOMIC DEVELOPMENT, AGRICULTURE & TRADE

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 19 members: Representatives Linville, Chair; Pettigrew, Vice Chair; Kristiansen, Ranking Minority Member; Appleton, Bailey, Blake, Buri, Chase, Clibborn, Grant, Haler, Kilmer, McCoy, Morrell, Newhouse, Quall, Strow, P. Sullivan and Wallace.

Minority Report: Do not pass. Signed by 3 members: Representatives Dunn, Holmquist and Kretz.

Staff: Meg Van Schoorl (786-7105).

Background:

National Animal Identification System (NAIS) Purposes

In 2004, the U.S. Department of Agriculture (USDA) initiated the NAIS as a comprehensive information system to support ongoing animal disease monitoring, surveillance, and eradication programs. When fully operational, the system is planned to be in use in all states to identify and track animals as they come into contact and commingle with animals other than those in their premise of origin. The system is intended to enable animal health officials to trace a sick animal or group of animals back to the herd or premise that was the most likely source of infection, and to trace forward animals that might have been exposed but later moved away from the infected herd or premise. A stated long-term NAIS goal is to be able to identify all premises and animals that had direct contact with a foreign animal disease or domestic disease of concern within 48 hours of discovery.

NAIS Implementation

The NAIS implementation involves both the federal and state departments of agriculture and has three phases: premise registration; animal identification; and animal movement reporting. The program is currently voluntary, but may become mandatory at the federal level in 2009 or 2010.

The first phase, *voluntary premise registration*, is a state and tribal responsibility. A premise is a location where animals are born, managed, marketed or exhibited. The state Department of Agriculture began premise registrations in January 2005. In the past year, 875 Washington premises have registered using an application that calls for the following information:

- "Account Information:" primary and alternate contact names; account number; mailing address; telephone/fax/e-mail; business type (LLC, non-profit, incorporated, government, etc.); business operation type (lab, slaughter plant, market/collection point, quarantine facility, production unit, exhibition, etc.); and
- "Premise Information:" name/description of premise ("back 40;" "barn #2"); premise number if known; physical address; longitude/latitude if known; primary contact name, telephone/fax; legal description of land (township, range, section); and premise operation type (lab, slaughter plant, market/collection point, quarantine facility, production unit, exhibition, etc.).

The second phase of NAIS will involve issuance of unique individual or group lot *animal identification numbers*. Nationally, a number of industry/government species-specific workgroups have formed to consider which types of identification will work best for their particular animals. Methods under consideration include radio frequency identification tags, retinal scans, DNA, and other options.

The third phase will focus on collection of *information on animal movement* from one premise to another. Although the USDA had earlier announced plans for the data to reside in a central federal database, the agency recently stated that there will be no single repository, but instead multiple databases, some in the private sector and some with states. The databases will include records of the animal identification number, the premise identification number where the movement takes place, the date, and type of event such as movement in, movement out, or termination of the animal. Additional information pertinent to an animal disease investigation, such as species, age, and breed may also be reported and stored.

Access to Data and Disclosure

According to the USDA, federal, state, and tribal animal health and public health officials will have access to the databases when they need information to administer animal health programs. Proprietary production data will not be retained by the USDA.

Due to privacy concerns voiced by producers, the USDA had been investigating options for protecting the confidentiality of animal premise, identification and movement data from the Freedom of Information Act (FOIA). Because public disclosure laws, rules, and issues vary from state to state, there is no standardized approach being taken by states with respect to public disclosure exemptions for premise, identification, and movement data.

Reportable and Non-Reportable Diseases/Public Disclosure

The Director of the Department is authorized in Chapter 16.36 RCW to designate by rule certain animal diseases as "reportable" by veterinarians, veterinary laboratories, and others when required by statute. The list of reportable diseases is in WAC 16-70-010. Some are categorized as emergency diseases which must be reported to the State Veterinarian on the day discovered. Examples are: Bovine Spongiform Encephalopathy (BSE), Exotic Newcastle Disease, Foot and Mouth Disease, and High Pathogenic Avian Influenza. Some must be reported the next working day when suspected or confirmed, including: Brucellosis, Chronic Wasting Disease, and Lyme Disease. Other diseases are reportable monthly. When reportable disease investigations are complete, both positive and negative results must be disclosed according to OIE World Animal Health Organization codes.

Results of testing requested by an animal owner for diseases not required to be reported is subject to public disclosure.

Summary of Engrossed Substitute Bill:

Information that is submitted by an individual or business for participation in a state or national animal identification system is exempt from public disclosure. Disclosure of such information to government officials at the local, state or federal levels is not public disclosure. In addition, this exemption does not affect disclosure of information used in an investigation of an animal disease that is reportable under Chapter 16.36 RCW and WAC 16-70-010 once the investigation is complete. The results of testing for an animal disease not

required to be reported under Chapter 16.36 RCW and WAC 16-70-010 that is done at the request of the owner or his or her designee and that can be identified to a particular business or individual is exempt from public disclosure.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed, except that section 3 which reinstates prior law related to public disclosure exemptions for agriculture and livestock information after a scheduled expiration and takes effect July 1, 2006.

Testimony For: The livestock industry is highly competitive and sensitive to privacy issues. Disclosure of certain proprietary information may enable competitors to figure out a livestock producer's marketing strategies and margins. Producer participation and accurate, quality information are the key to successful implementation of the NAIS, neither of which will be achieved without confidentiality. Programs in Australia and Canada that are industry-driven cost 25 cents to 30 cents over the life of an animal and have high compliance. Canada is a major competitor of the United States in Asian markets and, of all Canadian cattle, 85 percent will have ear tags by 2007. The USDA is "softening" on the 2009 date because the cattle industry lacks the necessary infrastructure such as ear tags, panel readers, and scanners. There needs to be a balance between producer privacy and the public's right to know. When the State Veterinarian is conducting an investigation, disclosure should wait until the investigation is complete. When reportable disease investigations are completed, both positive and negative results must be disclosed according to the OIE World Animal Health Organization codes.

Testimony Against: The NAIS is a work in progress, and whether the database will be private or government is a moving target. Between 800-900 premises have registered in Washington out of a potential 35,000. Exempting this information from disclosure may result in 25 to 50 percent more participation. The media is concerned about government accountability and needs access to public health information to know that the State Veterinarian has done his investigations correctly. The media does not want to get proprietary information; however, there is some overlap between public health information and proprietary information. Instituting an exemption for voluntary animal testing is a problem because that information is currently disclosable.

Persons Testifying: (In support) Representative Pettigrew, prime sponsor; Jack Field and Jim Sizemore, Washington Cattlemen's Association; Ed Field, Washington Cattle Feeders Association; Jay Gordon, Washington State Dairy Federation; Jim Jesernig and Rick Stott, AgriBeef; and Chris Cheney, Washington Fryer Commission.

(Opposed) Rowland Thompson, Allied Daily Newspapers of Washington; and Mark Allen, Washington State Association of Broadcasters.

(Neutral) Dr. Leonard Eldridge, State Veterinarian, Department of Agriculture.

Persons Signed In To Testify But Not Testifying: None.