

HOUSE BILL REPORT

SSB 5891

As Passed House:

April 24, 2003

Title: An act relating to livestock identification.

Brief Description: Identifying livestock.

Sponsors: By Senate Committee on Agriculture (originally sponsored by Senators Swecker and Rasmussen).

Brief History:

Committee Activity:

Agriculture & Natural Resources: 4/1/03, 4/4/03 [DP];

Appropriations: 4/5/03, 4/7/03 [DP].

Floor Activity:

Passed House: 4/24/03, 97-0.

Brief Summary of Substitute Bill

- Broadens the nature of "livestock identification" to include expressly the examination of documents regarding ownership.
- Increases the fees charged under the livestock identification, certified feed lot, and public livestock market laws and alters the period during which a recorded brand is valid.
- Identifies the evidence of ownership that must accompany cattle or horses when they are moved, and provides exemptions to this requirement.
- Requires certain information regarding the operation of certified feed lots.
- Alters requirements for public livestock market licenses and the information to be contained in applications for such licenses.
- No longer requires the veterinarian at a public livestock market to be a deputy State Veterinarian.
- Alters who must and who may receive "special sales" permits.

HOUSE COMMITTEE ON AGRICULTURE & NATURAL RESOURCES

Majority Report: Do pass. Signed by 13 members: Representatives Linville, Chair; Rockefeller, Vice Chair; Schoesler, Ranking Minority Member; Holmquist, Assistant Ranking Minority Member; Kristiansen, Assistant Ranking Minority Member; Chandler, Eickmeyer, Grant, Hunt, McDermott, Orcutt, Quall and Sump.

Staff: Kenneth Hirst (786-7105).

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: Do pass. Signed by 27 members: Representatives Sommers, Chair; Fromhold, Vice Chair; Sehlin, Ranking Minority Member; Pearson, Assistant Ranking Minority Member; Alexander, Boldt, Buck, Clements, Cody, Conway, Cox, DeBolt, Dunshee, Grant, Hunter, Kagi, Kenney, Kessler, Linville, McDonald, McIntire, Miloscia, Pflug, Ruderman, Schual-Berke, Sump and Talcott.

Staff: Patricia Linehan (786-7178).

Background:

The state's livestock identification program is administered by the Department of Agriculture (WSDA). It involves three chapters of law: one regarding brand registrations and the inspection of livestock for ownership; one regarding the licensing and operations of certified feed lots; and one regarding the licensing and operation of public livestock markets. Licensing, brand registration, inspection, and certain other fees collected under these statutes fund the livestock identification program.

Summary of Bill:

In General. Rather than referring to brands being inspected, the statutes now refer to livestock being inspected for brands or other means of identification, including the examination of documents providing evidence of ownership. The "livestock" that are subject to the livestock identification laws expressly include burros and no longer expressly include poultry or rabbits.

I. Fees

Brands. Effective January 1, 2004, the fee for recording a brand is increased to \$120 (from \$35, with the WSDA authorized to increase it by rule) and brands are recorded, rather than registered. Also effective January 1, 2004: the period during which the recorded brand is valid is extended to four years (from two) and the renewal fee is also increased to \$120 (from not less than \$25); if a brand recording is not renewed, it expires (rather than reverting to the WSDA); and the late fee for renewing a brand recording after it expires, but within one year of the expiration, is \$25, rather than being set by the WSDA.

The fee for obtaining a certified copy of a brand record is \$15 (rather than not more than \$7.50). Documents altering a title to a recorded brand must be accompanied by a fee of \$25 (rather than not more than \$15). The permit fee for acting as a registering agency for permanent identification symbols for horses is \$250 (rather than \$100).

Inspections. The minimum fee for issuing an inspection certificate except at a public livestock market or a special sale is \$5. The standard rate for conducting livestock inspections is the greater of 85 cents/head for cattle and \$3.50/head for horses or \$15/hour plus mileage reimbursement (rather than 60 cents/head for cattle and not more than \$2.40/head for horses at designated inspection points or not more than \$15/hour plus mileage reimbursement elsewhere). Where a single inspection certificate is issued for 30 or more horses belonging to one person, the fee is the greater of \$2/head or \$15/hour plus mileage reimbursement. The fee for individual identification certificates is the greater of \$20 for an annual certificate and \$60 for a lifetime certificate, or \$15/hour plus mileage reimbursement. However, for an annual certificate for 30 or more animals belonging to one person, the fee is the greater of \$5/head or \$15/hour plus mileage reimbursement. These fees are paid by the person in possession of the livestock unless the inspection is requested by the purchaser, in which case they are paid by the purchaser. A late fee of 1.5 percent per month is to be assessed on balances that are more than 30 days in arrears.

Certified Feed Lots. The application fee for a license for a certified feed lot is \$850 (rather than \$600). The handling fee for such a lot is 17 cents/head (rather than 12 cents/head).

Public Livestock Markets. The application fee for the initial license for a public livestock market is \$2,000 (rather than \$1,500). The annual licensing fee for such a market is: \$150 (rather than \$120) for markets with annual average sales volumes of up to \$10,000; \$300 (rather than \$240) for those with sales volumes over \$10,000 up to \$50,000; and \$450 (rather than \$360) for those with sales volumes over \$50,000. The application fee for a special sales permit or license under the public livestock market laws is \$50. The minimum daily fee to be paid the WSDA for inspections at a market is \$100 (rather than \$72).

All fees collected under the livestock identification laws, certified feed lot laws, and public livestock market laws must be deposited in the Agricultural Local Fund and used to carry out those laws.

II. Livestock Identification

Inspections & Certificates. The authority of the Director of the WSDA to designate mandatory inspection points for cattle and horses by rule is expanded to include: providing for the self-inspection of 15 or fewer cattle; providing for the issuance of individual identification certificates; and designating other documents (but not bills of sale) that constitute proof of ownership for cattle, horses, burros or mules. Cattle and

horses identified with individual identification certificates or other individual identification are subject to inspection only when sold on consignment. An individual identification certificate is an inspection certificate that authorizes the livestock owner to transport the animal out-of-state multiple times within a set period of time.

The "reasonable times" during which the WSDA may enter a slaughterhouse, public livestock market, certified feed lot, custom handling facility or place where hides are held for the purpose of livestock identification are times during regular business hours or during any working shift. The fee for a certificate of permit form is to be set by the WSDA by rule. It is a form that is completed by the owner or a person authorized to act on behalf of the owner to show the ownership of livestock. It is used to document ownership of livestock while in transit within the state or on consignment to any public livestock market, special sale, slaughter plant or certified feed lot. It does not provide evidence of the inspection of livestock.

Certificates must be kept by the owner or person in possession of cattle and must be furnished to the WSDA or any peace officer on demand. A self-inspection certificate is not valid proof of ownership and is not to be provided to a buyer of cattle with brands of persons other than the seller.

Moving Cattle. Cattle may not be moved or transported within this state without being accompanied by a certificate of permit, inspection certificate, self-inspection certificate, or other satisfactory proof of ownership. This prohibition does not apply when the cattle are moved or transported: on lands under the exclusive control of the person moving or transporting the cattle; or for temporary grazing or feeding purposes and have the recorded brand of the person having or transporting the cattle.

Peace officers, not just the Director of the WSDA (Director), may stop a vehicle carrying cattle to determine whether the necessary documents accompany the cattle. The Director may adopt rules providing exemptions to this documentation requirement for cattle or horses. A custom handling facility that receives cattle carcasses or parts must still retain such a certificate for one year, but need not mail a copy to the WSDA.

Impounding Livestock. Procedures are clarified for impounding and selling cattle or horses offered for sale and inspection without the proper identifying certificates. When the Director sells the animal, the purchaser is to receive an inspection certificate documenting the new ownership. If theft is not suspected, the proceeds for the sale are to be retained by the WSDA. The circumstances under which the seller of such impounded dairy breed cattle are to receive the proceeds of the sale, less costs, are specified as well as the circumstances when the proceeds are to be held by the Director or a public livestock market. A person has 30 days (rather than 10 days) to present a claim to the Director regarding proceeds held by the Director.

III. Certified Feed Lots

Before issuing the initial license for a certified feed lot, the WSDA must conduct an inspection of all cattle and the corresponding ownership documents. The fee for conducting the inspection is the same as for inspecting cattle, not the "handling" fee for certified feed lots.

Inspections are not required for the movement of cattle from one certified feed lot to another if the cattle are accompanied by satisfactory proof of ownership and there is no change of ownership. Any change of ownership within a certified feed lot requires livestock inspection unless the cattle are delivered to a slaughter plant within 10 days of sale to the plant. A change in ownership does not include a change in partners in a partnership or members in an association nor a sale of stock in a corporation, company, or association. Inspection fees are payable to the Director or the licensee as an agent. If a person's license for such a lot is suspended, the person may request a hearing. The auditing of certified feed lots by the Director is no longer specified as being annual. Records of a certified feed lot, including copies of inspection certificates received by the lot and a listing of all cattle entering and leaving the lot, must be furnished to the Director monthly (rather than from time to time). Certified feed lot licenses all expire annually on June 30th.

IV. Public Livestock Markets

Rather than being exempt from the requirements of the public livestock market laws for sales of livestock on his or her own property, a farmer wishing to make public sales on his or her own property must obtain a permit previously required for occasional or seasonal "special sales" by associations. Associations or farmers must apply to the WSDA at least 15 days before the proposed public sale. The sale is subject to livestock and health inspection requirements unless otherwise provided by rule. The requirements for a special sale permit also apply to youth livestock organizations conducting public sales.

The financial information an applicant for a public livestock market license must provide to demonstrate minimum net worth must be audited by an accountant and must also be submitted regarding any parent company of the applicant. The financial information is confidential and not subject to public disclosure. Certain information that must be included in an initial application and in an application to renew a license is altered. In determining whether to issue a license, the Director must also consider the class of livestock available for marketing and the availability of buyers in an area to be served by a proposed market. Applications for licenses for special open consignment sales are no longer required to disclose the assets and liabilities of the applicant.

A license may be denied, suspended, or revoked for knowingly providing a check with insufficient funds to the WSDA (not just to a consignor). All notices and proceedings conducted regarding an action to deny, suspend, or revoke a license and actions taken following those proceedings are to be conducted or made as prescribed by the Administrative Procedure Act rather than as specified in these laws. A surety bond

approved by the U. S. Department of Agriculture for bonding under the federal market agency laws that is provided in lieu of a bond under state law need no longer name the Director as a trustee. The veterinarian employed by a livestock market need no longer be a deputy State Veterinarian. The person must be a licensed, accredited veterinarian. However, the State Veterinarian or his or her authorized representative may conduct testing necessary to prevent the spread of livestock diseases and the Director is to establish sanitary practices, health practices and standards, and animal examination requirements for such markets by rule. In addition to being required to provide access for such a market-employed veterinarian and the WSDA to carry out their functions, a market must provide the same access to federal veterinarians operating under federal laws and rules.

V. Crimes

It is unlawful for a person to fail to present an animal for inspection at a mandatory inspection point or for a person transporting or moving livestock in the state to refuse the Director or a peace officer in establishing the ownership of the livestock. With regard to the gross misdemeanor of possessing cattle or horses with a recorded brand and not having the proper accompanying certificates, cattle may be accompanied by self-inspection certificates and horses may be accompanied by bills of sale from the previous owners, but not vice-versa. Any violation of the public livestock market laws or rules is a gross misdemeanor (rather than being a misdemeanor for the first offense and a gross misdemeanor for subsequent offenses).

VI. Other

The WSDA must create an advisory committee representing all of the major sectors of the livestock industry for which the federal government will be requiring country-of-origin labeling. The advisory committee is to: evaluate mechanisms needed to comply with these requirements; evaluate federal food safety and traceability requirements for meat products; and review the identification work plan developed by a national task force. Producers of private sector aquatic products may choose to be represented on the advisory committee and the Director may invite processors, wholesalers, and retailers to participate. The WSDA must report the findings and conclusion of the advisory committee to the Legislature by December 1, 2005. The membership of an existing Livestock Identification Advisory Board is clarified.

The Director may collect monies to recover the reasonable costs of publishing and distributing copies of the state's brand book. Supplements for the book need no longer be published biennially. The Director may adopt rules needed to administer the recording of brands and changes to those recordings.

All of the provisions of the livestock identification laws that apply to horses now also apply to burros and mules. Repealed are provisions: establishing fees for examinations, tests, treatments, and inoculations performed at a public livestock market; requiring a separate permit for special sales of purebred stock; and authorizing limited public

livestock market licenses with allocated sales days.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill contains an emergency clause and takes effect July 1, 2003, except sections 4 and 10, relating to brand recording and recording fees, which take effect January 1, 2004.

Testimony For: (Agriculture & Natural Resources) (1) The WSDA can provide livestock identification services, but it needs the required financial resources. This is an industry-funded program for which services were cut back in the late 1990s because of the lack of those resources. (2) With the bill, there would be two mandatory inspection points for cattle: at the slaughtering plant and at the certified feed lots where the WSDA would be able to check for ownership. The bill will provide a program that will allow the WSDA to respond to new federal requirements. (3) Even without responding to new federal requirements, the state must still provide a livestock identification program. The current self-inspection system requires everyone to be honest, without the WSDA making sure they are. Neighboring states can attest to the problems our state's self-inspection system creates regarding theft. (4) The bill allows the state to have a livestock identification program while the advisory committee studies new federal requirements.

Testimony For: (Appropriations) The Washington Cattlemen's Association and the Washington Dairy Federation support this bill.

Testimony Against: (Agriculture & Natural Resources) (1) The livestock identification program has a history of financial difficulty. (2) The cattle feeding part of the industry is just recovering from poor financial conditions and now operators of certified feed lots will be faced with increased fees they cannot pass on to others. The fee increases for one operator will be \$20,000. (3) The new fees are not needed; the current self-inspection system works fine. Certified feed lots use a superior ear-tag system for tracking animals in the lots that allows the type of trace-back that will be needed under new federal requirements. Branding is a 19th century technology that does not accommodate trace-back. (4) The bill gives others in the livestock industry what they want, but ignores the needs of the cattle feeders.

Testimony Against: (Appropriations) None.

Testified: (Agriculture & Natural Resources) (In support) Mary Beth Lang, Department of Agriculture; Tip Hudson, Washington Cattlemens' Association; and Jay Gordon, Washington Dairy Federation.

(Opposed) Steve Erickson and Wendy Peay, Washington Cattle Feeders' Association.

Testified: (Appropriations) Chris Cheney, Washington Cattlemen's Association and Washington Dairy Federation.