

ASSEMBLY BILL NO. 368—ASSEMBLYMAN
MUNFORD (BY REQUEST)

MARCH 21, 2011

Referred to Committee on Natural Resources,
Agriculture, and Mining

SUMMARY—Revises provisions governing brands and brand inspections. (BDR 50-510)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: Yes.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to livestock; requiring the State Department of Agriculture to prepare and maintain certain books in an electronic format; authorizing a person to transport a saddle horse into and from this State without a brand inspection or livestock movement permit issued by the Department under certain circumstances; revising provisions governing certain fees collected by the Department; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 Existing law requires any written instrument evidencing the transfer of
2 ownership of any livestock brand or marks to be recorded in the Office of the State
3 Department of Agriculture in a book provided by the Department for that purpose.
4 (NRS 564.110) Existing law also authorizes the Department to compile and issue
5 books and supplements to those books which set forth the records of the
6 Department of all livestock brands and marks which may be found on any animals
7 in this State. (NRS 564.130) **Sections 1 and 2** of this bill require the Department to
8 make those books available in an electronic format and authorize the Department to
9 include, in certain fees collected by the Department, any costs incurred by the
10 Department in preparing those books in an electronic format.

11 Existing law authorizes the Director of the Department to establish brand
12 inspection districts in this State. If such districts are established, any animal within
13 those districts is subject to brand inspection before the animal may be consigned for
14 slaughter, sold or removed from any of those districts. (NRS 565.040, 565.090)
15 **Section 3** of this bill authorizes a person to transport a saddle horse into and from
16 this State without a brand inspection or livestock movement permit issued by the
17 Department. Unless a shorter period is prescribed by the Department, any horse so



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18 transported must not remain more than 15 days in this State and must not be
19 transported into or from this State more than once during that period.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

- 1 **Section 1.** NRS 564.110 is hereby amended to read as follows:
2 564.110 1. Any brand or brand and mark or marks awarded
3 and recorded and remaining of record in accordance with the terms
4 of this chapter, including those transferred legally as provided in this
5 section, are the property of the person to whom they stand of record
6 as provided in this chapter and are subject to sale, assignment,
7 transfer, security agreement or lien, devise and descent the same as
8 other personal property.
- 9 2. Instruments of writing evidencing the sale, assignment,
10 transfer, security agreement, lien, devise or descent must be in that
11 form, as to text, signatures, witnesses, acknowledgments or
12 certifications, required by statutes, in the case of the kind of
13 instrument concerned, but the Department may secure such
14 competent legal advice or rulings, and require such supporting
15 evidence as it deems necessary, as to such instruments of writing,
16 being in fact, authentic and in legal form, before approving and
17 recording those instruments of writing as provided in this chapter.
- 18 3. Instruments in writing evidencing the transfer of ownership
19 of any brand or brand and mark or marks must, after approval, be
20 recorded in the office of the Department in a book to be provided for
21 that purpose, and are not legally binding until so approved by the
22 Department and recorded. *In addition to any other format, the*
23 *Department shall prepare and maintain the book required by this*
24 *subsection in an electronic format. The Department may include,*
25 *in any fee collected by the Department for the recording of the*
26 *instruments pursuant to NRS 564.080, any costs incurred by the*
27 *Department in preparing and maintaining the book in an*
28 *electronic format pursuant to this subsection.*
- 29 4. The recording of those instruments has the same force and
30 effect as to third parties as the recording of instruments affecting the
31 sale, assignment, transfer, devise or descent of other personal
32 property. The original, or a certified copy of any such instrument,
33 may be introduced in evidence in the same manner as is provided
34 for similar instruments affecting personal property, and the record of
35 the instrument or instruments of transfer, or the transcript thereof
36 certified by the custodian of the record, may be read in evidence
37 without further proof.
- 38 5. If any brand or brand and mark or marks of record, in
39 accordance with the provisions of this chapter, becomes the subject



1 of, or is included in, any security agreement, provisional assignment
2 or legal lien, the secured party, provisional assignee or lienholder
3 may notify the Department in writing as to the existence and
4 conditions of the security agreement, provisional assignment or lien.
5 After the receipt of the written notice, the Department shall not
6 transfer the brand or brand and mark or marks, other than to the
7 secured party, provisional assignee or lienholder until there is filed
8 with the Department satisfactory legal evidence that the security
9 agreement, provisional assignment or lien has been legally satisfied
10 and removed.

11 6. No transfer or change, or partial, joint or complete
12 ownership, of any brand under the provisions of this section:

13 (a) Grants or recognizes any change in the method or area of its
14 use from that authorized at the time of recording, or subsequent
15 thereto but before the transfer or change of ownership; or

16 (b) Waives or modifies the rerecording requirements set forth in
17 NRS 564.120.

18 **Sec. 2.** NRS 564.130 is hereby amended to read as follows:

19 564.130 1. The Department may compile and issue books,
20 and supplements thereto, containing transcripts of part or all of its
21 records of brands and marks, so arranged and indexed as to be
22 suitable for use in identifying any brands or marks which may be
23 found in this State on any animals, or the hides thereof, and used in
24 compliance with the provisions of this chapter.

25 2. Copies of the brand books and supplements must be made
26 available to any person at a charge to be fixed by the Department,
27 but the charge must not be less than the cost of compilation,
28 publication and issuance.

29 3. Copies of the brand books or supplements may be furnished
30 by the Department, without charge, to any public officer or other
31 person whose possession of the book or supplements will, in the
32 opinion of the Department, serve to promote the general welfare.

33 *4. In addition to any other format, the Department shall make*
34 *any copies of the brand books and supplements available pursuant*
35 *to this section available in an electronic format. The Department*
36 *may include, in the amount of any charge fixed by the Department*
37 *pursuant to subsection 2, any costs incurred by the Department in*
38 *preparing those copies pursuant to this subsection.*

39 **Sec. 3.** Chapter 565 of NRS is hereby amended by adding
40 thereto a new section to read as follows:

41 *1. Any person who resides in a state which does not require*
42 *the use or inspection of a brand for a horse in that state may*
43 *transport a saddle horse owned by that person into and from this*
44 *State without a brand inspection or livestock movement permit*
45 *issued by the Department. Any saddle horse transported pursuant*



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1 *to this section must not remain in this State for more than 15 days*
2 *or any shorter period specified by the Department and must not be*
3 *transported into or from this State more than once during that*
4 *period. Upon request by the Department, a person who transports*
5 *a saddle horse pursuant to this section shall present to the*
6 *Department a certificate of health for the saddle horse and a bill*
7 *of sale or other proof of ownership of the saddle horse required by*
8 *the Department.*

9 2. As used in this section, "saddle horse" means any horse
10 which is ridden or otherwise used by a person while competing or
11 participating in a rodeo, horse show or other contest of skill in this
12 State other than a bucking event at that rodeo, horse show or
13 contest of skill.

14 **Sec. 4.** NRS 565.040 is hereby amended to read as follows:

15 565.040 1. The Director may declare any part of this State a
16 brand inspection district.

17 2. After the creation of any brand inspection district as
18 authorized by this chapter, all animals within any such district are
19 subject to brand inspection in accordance with the provisions of this
20 chapter before:

21 (a) Consignment for slaughter within any district;

22 (b) Any transfer of ownership by sale or otherwise; or

23 (c) Removal from the district if the removal is not authorized
24 pursuant to a livestock movement permit issued by the Department
25 **H or pursuant to section 3 of this act.**

26 3. If a brand inspection district is created by the Department
27 pursuant to the provisions of this chapter, the Director shall adopt
28 regulations defining the boundaries of the district and the fees to be
29 collected for brand inspection and prescribing such other methods of
30 procedure not inconsistent with the provisions of this chapter as the
31 Director considers necessary.

32 4. Any regulations adopted pursuant to the provisions of this
33 section must be published at least twice in a newspaper having a
34 general circulation in the brand inspection district created by the
35 regulations, and copies of the regulations must be mailed to all
36 common carriers of record with the Nevada Transportation
37 Authority operating in the brand inspection district. Such
38 publication and notification constitutes legal notice of the creation
39 of the brand inspection district. The expense of advertising and
40 notification must be paid from the Livestock Inspection Account.

41 **Sec. 5.** NRS 565.090 is hereby amended to read as follows:

42 565.090 1. Except as otherwise provided in subsections 3 and
43 **6 H and section 3 of this act**, it is unlawful for any person to drive
44 or otherwise remove any animals out of a brand inspection district
45 created under the provisions of this chapter until the animals have



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1 been inspected and a brand inspection clearance certificate is issued
2 by the Department or a written permit from the Department has been
3 issued authorizing the movement without brand inspection.

4 2. Any person contemplating the driving or movement of any
5 animals out of a brand inspection district shall notify the
6 Department or an inspector thereof of the person's intention, stating:

7 (a) The place at which it is proposed to cross the border of the
8 brand inspection district with the animals.

9 (b) The number and kind of animals.

10 (c) The owner of the animals.

11 (d) The brands and marks of the animals claimed by each owner
12 and, if they are other than the brands and marks legally recorded in
13 the name of the owner, information concerning the basis for the
14 claim of ownership or legal possession.

15 (e) The date of the proposed movement across the border of the
16 brand inspection district and the destination of the movement.

17 (f) If a brand inspection is required, a statement setting forth the
18 place where the animals will be held for brand inspection.

19 3. The provisions of this section do not apply to animals whose
20 accustomed range is on both sides of the boundary of any brand
21 inspection district but contiguous to that district and which are being
22 moved from one portion of the accustomed range to another merely
23 for pasturing and grazing thereon.

24 4. ~~[The]~~ *Except as otherwise provided in section 3 of this act,*
25 *the* provisions of this section apply at all times to the movement of
26 any animals across the Nevada state line to any point outside of the
27 State of Nevada, except animals whose accustomed range is on both
28 sides of the Nevada state line but contiguous thereto and which are
29 being moved from one portion to another of the accustomed range
30 merely for pasturing and grazing thereon.

31 5. In addition to the penalty imposed in NRS 565.170, a person
32 who violates the provisions of subsection 1 is:

33 (a) For the first violation, subject to an immediate brand
34 inspection of the animals by the Department and shall reimburse the
35 Department for its time and mileage and pay the usual fees for the
36 brand inspection.

37 (b) For the second and any subsequent violation, ineligible for a
38 permit to move any livestock without a brand inspection until the
39 State Board of Agriculture is satisfied that any future movement will
40 comply with all applicable statutes and regulations.

41 6. The Department may establish regulations specifying the
42 circumstances under which a permit may be issued authorizing the
43 movement of livestock without a brand inspection pursuant to this
44 section. The circumstances may include, without limitation, the



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- 1 routine movement of horses and bulls within and from this State for
- 2 the purpose of participating in a rodeo.
- 3 **Sec. 6.** (Deleted by amendment.)
- 4 **Sec. 7.** This act becomes effective on July 1, 2011.

