

Amendment No. 233

Assembly Amendment to Assembly Bill No. 368

(BDR 50-510)

Proposed by: Assembly Committee on Natural Resources, Agriculture, and Mining

Amends: Summary: No Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes

ASSEMBLY ACTION			Initial and Date	SENATE ACTION			Initial and Date
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/> _____	Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/> _____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/> _____	Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/> _____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/> _____	Receded	<input type="checkbox"/>	Not	<input type="checkbox"/> _____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) *green bold italic underlining* is new language proposed in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill that is proposed to be retained in this amendment; and (6) *green bold underlining* is newly added transitory language.

JRS/WLK



Date: 4/17/2011

A.B. No. 368—Revises provisions governing brands and brand inspections.
(BDR 50-510)



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

MARCH 21, 2011

Referred to Committee on Natural Resources,
Agriculture, and MiningSUMMARY—Revises provisions governing brands and brand inspections.
(BDR 50-510)FISCAL NOTE: Effect on Local Government: No.
Effect on the State: Yes.

~

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; ~~requiring an inspector of the Department to carry or make available for use during a brand inspection a scanner or other device used to read an identification microchip subcutaneously implanted into livestock;~~ revising provisions governing certain fees collected by the Department; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

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

Existing law authorizes the Director of the Department to establish brand inspection districts in this State. If such districts are established, any animal within those districts is subject to brand inspection before the animal may be consigned for slaughter, sold or removed from any of those districts. (NRS 565.040, 565.090) **Section 3** of this bill authorizes a person to transport ~~not more than 10~~ a saddle ~~horses~~ **horse** into and from this State without a brand inspection or livestock movement permit issued by the Department. ~~Any~~ **Unless a shorter period is prescribed by the Department, any** horse so transported must not remain more than ~~21~~ **15** days in this State and must not be transported into or from this State more than once during that period.

~~Section 6 of this bill requires each inspector of the Department, while conducting a brand inspection, to carry or otherwise make available for use a scanner or other device used for~~

~~reading an identification microchip that has been subcutaneously implanted into any livestock inspected. Section 6 authorizes the Department to include, in any fee collected by the Department for conducting the brand inspection, any cost incurred by the Department in using the scanner or other device during the brand inspection.]~~

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

Section 1. NRS 564.110 is hereby amended to read as follows:

564.110 1. Any brand or brand and mark or marks awarded and recorded and remaining of record in accordance with the terms of this chapter, including those transferred legally as provided in this section, are the property of the person to whom they stand of record as provided in this chapter and are subject to sale, assignment, transfer, security agreement or lien, devise and descent the same as other personal property.

2. Instruments of writing evidencing the sale, assignment, transfer, security agreement, lien, devise or descent must 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 legal form, before approving and recording those instruments of writing as provided in this chapter.

3. Instruments in writing evidencing the transfer of ownership of any brand or brand and mark or marks must, after approval, be recorded in the office of the Department in a book to be provided for that purpose, and are not legally binding until so approved by the Department and recorded. *In addition to any other format, the Department shall prepare and maintain the book required by this subsection in an electronic format. The Department may include, in any fee collected by the Department for the recording of the instruments pursuant to NRS 564.080, any costs incurred by the Department in preparing and maintaining the book in an electronic format pursuant to this subsection.*

4. The recording of those instruments has 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 in the same manner as is provided for similar instruments affecting personal property, and the record of the instrument or instruments of transfer, or the transcript thereof certified by the custodian of the record, may be read in evidence without further proof.

5. If any brand or brand and mark or marks of record, in accordance with the provisions of this chapter, becomes the subject of, or is included in, any security agreement, provisional assignment or legal lien, the secured party, provisional assignee or lienholder may notify the Department in writing as to the existence and conditions of the security agreement, provisional assignment or lien. After the receipt of the written notice, the Department shall not transfer the brand or brand and mark or marks, other than to the secured party, provisional assignee or lienholder until there is filed with the Department satisfactory legal evidence that the 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:

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

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

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

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

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

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

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

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

1. Any person who resides in a state which does not require the use or inspection of a brand for a horse in that state may transport ~~(not more than 10)~~ a saddle ~~(horse)~~ horse owned by that person into and from this State without a brand inspection or livestock movement permit issued by the Department. Any saddle horse transported pursuant to this section must not remain in this State for more than ~~(24)~~ 15 days or any shorter period specified by the Department and must not be transported into or from this State more than once during that period. Upon request by the Department, a person who transports a saddle horse pursuant to this section shall present to the Department a certificate of health for the saddle horse and a bill of sale or other proof of ownership of the saddle horse required by the Department.

2. As used in this section, "saddle horse" means any horse which ~~is~~

~~(a) Is owned by a person who resides in a state which does not require the use or inspection of a brand for the horse in that state;~~

~~(b) Is is ridden or otherwise used by (the) a person while competing or participating in (any event) a rodeo, horse show or other (activity) contest of skill in this State; and~~

~~(c) Is not placed or kept in a corral or other enclosure with any other horse during an event or other activity specified in paragraph (b);~~

~~→ The term does not include a horse which is ridden by a person who is a contestant in other than a bucking event at (a) that rodeo, horse show or (other) contest of skill. (in this State)~~

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

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

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

(a) Consignment for slaughter within any district;

(b) Any transfer of ownership by sale or otherwise; or
(c) Removal from the district if the removal is not authorized pursuant to a livestock movement permit issued by the Department ~~or~~ *pursuant to section 3 of this act.*

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

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

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

565.090 1. Except as otherwise provided in subsections 3 and 6 ~~or~~ *and section 3 of this act*, it is unlawful for any person to drive or otherwise remove any animals out of a brand inspection district created under the provisions of this chapter until the animals have been inspected and a brand inspection clearance certificate is issued by the Department or a written permit from the Department has been issued authorizing the movement without brand inspection.

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

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

(b) The number and kind of animals.

(c) The owner of the animals.

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

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

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

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

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

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

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

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

6. The Department may establish regulations specifying the circumstances under which a permit may be issued authorizing the movement of livestock without a brand inspection pursuant to this section. The circumstances may include, without limitation, the routine movement of horses and bulls within and from this State for the purpose of participating in a rodeo.

Sec. 6. ~~[NRS 565.100 is hereby amended to read as follows:~~

~~565.100 1. It is unlawful for any person to consign for slaughter, or slaughter at an approved plant, or transfer ownership of any animals by sale or otherwise within any brand inspection district created under the provisions of this chapter, until the animals have been inspected by an inspector of the Department and a brand inspection clearance certificate issued covering the animals.~~

~~2. During any inspection of brands conducted by an inspector of the Department, the inspector shall carry or otherwise make available for use a scanner or other device which is used to read an identification microchip subcutaneously implanted into any livestock inspected. The Department may include, in any fee collected by the Department for conducting the inspection pursuant to NRS 565.070, any cost incurred by the Department in using the scanner or other device during the inspection.]~~ (Deleted by amendment.)

Sec. 7. This act becomes effective on July 1, 2011.