

ASSEMBLY BILL NO. 264—ASSEMBLYMEN GRADY,
WHEELER; ELLISON, KIRNER AND LIVERMORE

MARCH 15, 2013

JOINT SPONSORS: SENATORS GOICOECHEA
AND SETTELMEYER

Referred to Committee on Natural Resources,
Agriculture, and Mining

SUMMARY—Revises provisions relating to estrays and feral
livestock. (BDR 50-531)

FISCAL NOTE: Effect on Local Government: Increases or Newly
Provides for Term of Imprisonment in County or City
Jail or Detention Facility.
Effect on the State: No.

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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; revising provisions relating to the
management, control, placement and disposition of
estrays and feral livestock; increasing the penalty for
certain crimes relating to estrays and feral livestock;
providing a penalty; and providing other matters properly
relating thereto.

Legislative Counsel's Digest:

Under existing law, all estrays and feral livestock are deemed to be the property
of the State Department of Agriculture and the Department has all rights accruing
under state law to owners of such animals, including providing for the control,
placement or disposition of those animals. (NRS 569.010) **Section 3** of this bill
clarifies that the Department is also authorized to provide for the management of
estrays and feral livestock.

Existing law authorizes the Department to enter into a cooperative agreement
for the control, placement or disposition of livestock. (NRS 569.031) **Sections 1, 2**
and 4-7 of this bill clarify that the Department is authorized to enter into a
cooperative agreement pursuant to NRS 569.031 for the management, control,
placement and disposition of estrays and feral livestock. **Section 4** also requires any
person or entity that enters into a cooperative agreement with the Department to



hold the State of Nevada harmless from any claim or liability arising from an act or omission of the person or entity in carrying out the agreement.

Existing law makes it unlawful for a person, other than an authorized agent of the Department, to take up and retain possession of or feed any stray or feral livestock. Under existing law, a person is not cited or charged criminally for the first violation of the prohibition against feeding an stray or feral livestock, but instead receives a warning. (NRS 569.040) **Section 5** also makes a second or subsequent violation of such an offense a gross misdemeanor.

Under existing law, a person who takes up or retains possession of any stray or feral livestock which is not his or her property and without the owner's consent is guilty of a misdemeanor. (NRS 569.130) **Section 8** of this bill increases the penalty for that violation from a misdemeanor to a gross misdemeanor.

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

Section 1. NRS 561.218 is hereby amended to read as follows:

561.218 1. The Director shall appoint a person to manage the activities of the Department relating to natural resources, land use planning and the management and control of wild horses, estrays and feral livestock. The person must be appointed on the basis of merit and is in the unclassified service of the State. The Director may remove the person from office with the approval of the Board.

2. The person appointed shall:

(a) Establish and carry out a policy for the management and control of estrays and the preservation and allocation of natural resources necessary to advance and protect the livestock and agricultural industries in this State.

(b) Develop cooperative agreements and working relationships with federal and state agencies and local governments for land use planning and the preservation and allocation of natural resources necessary to advance and protect the livestock and agricultural industries in this State.

(c) Cooperate with private organizations and governmental agencies to develop procedures and policies for the management and control of wild horses.

(d) Monitor gatherings of estrays and feral livestock conducted pursuant to the provisions of NRS 569.040 to 569.130, inclusive, and assist district brand inspectors in identifying estrays before they are sold or given a placement or other disposition through a cooperative agreement established pursuant to NRS 569.031 *for the management, control, placement or disposition of estrays and feral livestock.*

(e) Provide the members of the general public with information relating to the activities of the Department and solicit



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1 recommendations from the members of the general public and
2 advisory groups concerning those activities.

3 (f) Make assessments of the level of competition between
4 livestock and wildlife for food and water, collect data concerning
5 the movement of livestock and perform activities necessary to
6 control noxious weeds.

7 (g) Participate in land use planning relating to the competition
8 for food and water between livestock and wildlife to ensure the
9 maintenance of the habitat of both livestock and wildlife.

10 (h) Present testimony, conduct research and prepare reports for
11 the Governor, the Legislature, the Director and any other person or
12 governmental entity as directed by the Director.

13 (i) Develop and carry out a program to educate the members of
14 the general public concerning the programs administered by the
15 Department, including programs for the management and control of
16 estrays and feral livestock.

17 (j) Make proposals to the Director for the amendment of the
18 regulations adopted by the Board pursuant to NRS 561.105.

19 (k) Perform such other duties as directed by the Director.

20 3. As used in this section:

21 (a) "Estray" has the meaning ascribed to it in NRS 569.0075.

22 (b) "Feral livestock" has the meaning ascribed to it in
23 NRS 569.008.

24 (c) "Wild horse" means a horse, mare or colt which is
25 unbranded and unclaimed and lives on public land.

26 **Sec. 2.** NRS 561.344 is hereby amended to read as follows:

27 561.344 1. The Livestock Inspection Account is hereby
28 created in the State General Fund for the use of the Department.

29 2. The following special taxes, fees and other money must be
30 deposited in the Livestock Inspection Account:

31 (a) All special taxes on livestock as provided by law.

32 (b) Fees and other money collected pursuant to the provisions of
33 chapter 564 of NRS.

34 (c) Fees collected pursuant to the provisions of chapter 565 of
35 NRS.

36 (d) Unclaimed proceeds from the sale of estrays and feral
37 livestock by the Department pursuant to NRS 569.005 to 569.130,
38 inclusive, or proceeds required to be deposited in the Livestock
39 Inspection Account pursuant to a cooperative agreement established
40 pursuant to NRS 569.031 **for the management, control,**
41 **placement or disposition of estrays and feral livestock.**

42 (e) Fees collected pursuant to the provisions of chapter 573 of
43 NRS.

44 (f) Fees collected pursuant to the provisions of chapter 576 of
45 NRS.



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(g) Laboratory fees collected for the diagnosis of infectious, contagious and parasitic diseases of animals, as authorized by NRS 561.305, and as are necessary pursuant to the provisions of chapter 571 of NRS.

3. Expenditures from the Livestock Inspection Account must be made only for carrying out the provisions of this chapter and chapters 564, 569, 571, 573 and 576 of NRS.

4. The interest and income earned on the money in the Livestock Inspection Account, after deducting any applicable charges, must be credited to the Account.

Sec. 3. NRS 569.010 is hereby amended to read as follows:

569.010 1. Except as otherwise provided by law, all estrays and feral livestock within this state shall be deemed for the purpose of this section to be the property of the Department.

2. The Department has all rights accruing pursuant to the laws of this state to owners of those animals, and may:

(a) Dispose of estrays and feral livestock by sale through an agent appointed by the Department; or

(b) Provide for the **management**, control, placement or disposition of estrays and feral livestock through cooperative agreements pursuant to NRS 569.031.

3. Except as otherwise provided by law, all money collected for the sale or for the injury or killing of any such animals must be held for 1 year, subject to the claim of any person who can establish legal title to any animal concerned. All money remaining unclaimed must be deposited in the Livestock Inspection Account after 1 year. The Department may disallow all claims if it deems the claims illegal or not showing satisfactory evidence of title.

4. The Department or any political subdivision of this state is not liable for any trespass or other damage caused by any of those estrays or feral livestock.

Sec. 4. NRS 569.031 is hereby amended to read as follows:

569.031 The Department may enter into a cooperative agreement for the **management**, control, placement or disposition of the livestock with another agency of this state or with a county, city, town, township, peace officer, poundmaster or nonprofit organization. If an agreement is entered into, it must provide for:

1. The responsibility for the payment of the expenses incurred in taking up, holding, advertising and making the disposition of the stray or feral livestock, and any damages for trespass allowed pursuant to NRS 569.440;

2. The disposition of any money received from the sale of the livestock;

3. The protection of the rights of a lawful owner of an stray or feral livestock pursuant to NRS 569.040 to 569.130, inclusive; ~~and~~



4. The designation of the specific geographic area of this state to which the cooperative agreement applies ~~H~~; and

5. The cooperating person or entity to hold the State of Nevada harmless from any claim or liability arising from an act or omission of the cooperating person or entity in carrying out the cooperative agreement.

➤ The Department shall annually review the actions of the cooperating person or entity for compliance with the agreement. The Department may cancel the agreement upon a finding of noncompliant actions.

Sec. 5. NRS 569.040 is hereby amended to read as follows:

569.040 1. Except as otherwise provided in subsection 2, NRS 569.040 to 569.130, inclusive, or pursuant to a cooperative agreement established pursuant to NRS 569.031 ~~H~~ *for the management, control, placement or disposition of estrays and feral livestock*, it is unlawful for any person or the person's employees or agents, other than an authorized agent of the Department, to:

(a) Take up any estray or feral livestock and retain possession of it; or

(b) Feed any estray or feral livestock.

2. For a first violation of paragraph (b) of subsection 1, a person must not be cited or charged criminally but must be informed that it is unlawful to feed an estray or feral livestock.

3. For a second or subsequent violation of paragraph (b) of subsection 1, a person is guilty of a gross misdemeanor.

Sec. 6. NRS 569.080 is hereby amended to read as follows:

569.080 1. If an estray is not claimed within 5 working days after the last publication of the advertisement required by NRS 569.070, it must be:

(a) Sold by the Department; or

(b) Held by the Department until the estray is given a placement or other disposition through a cooperative agreement established pursuant to NRS 569.031 ~~H~~ *for the management, control, placement or disposition of estrays and feral livestock*.

2. If feral livestock is not claimed by the date of sale published pursuant to NRS 569.075, the feral livestock must be sold by the Department pursuant to NRS 569.075 or placed pursuant to *a cooperative agreement established pursuant to NRS 569.031 H for the management, control, placement or disposition of estrays and feral livestock*.

3. If the Department sells the estray or feral livestock, the Department shall give a brand inspection clearance certificate to the purchaser.



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4. Estrays and feral livestock must be marked, branded or identified with an individual animal identification before sale or placement.

Sec. 7. NRS 569.090 is hereby amended to read as follows:

569.090 1. Except as otherwise provided pursuant to a cooperative agreement established pursuant to NRS 569.031 ~~for~~ *for the management, control, placement or disposition of estrays and feral livestock*, the Department shall:

(a) Pay the reasonable expenses incurred in taking up, holding, advertising and selling the estray or feral livestock, and any damages for trespass allowed pursuant to NRS 569.440, from the proceeds of the sale of the estray or feral livestock and shall place the balance in an interest-bearing checking account in a bank or credit union qualified to receive deposits of public money. The proceeds from the sale and any interest on those proceeds, which are not claimed pursuant to subsection 2 within 1 year after the sale, must be deposited in the State Treasury for credit to the Livestock Inspection Account.

(b) Make a complete record of the transaction, including any marks and brands and other means of identification of the estray, and shall keep the record available for inspection by members of the general public.

2. If the lawful owner of the estray or feral livestock is found within 1 year after its sale and proves ownership to the satisfaction of the Department, the net amount received from the sale must be paid to the owner.

3. If any claim pending 1 year after the date of sale is denied, the proceeds and any interest thereon must be deposited in the Livestock Inspection Account.

Sec. 8. NRS 569.130 is hereby amended to read as follows:

569.130 Any person, including, without limitation, any firm, company, association or corporation, who takes up or retains in his or her possession any estray or feral livestock not the person's property, without the owner's consent, or except in accordance with the provisions of NRS 569.040 to 569.130, inclusive, is guilty of a *gross* misdemeanor.

