

SENATE BILL NO. 417—SENATOR GOICOECHEA

MARCH 21, 2019

Referred to Committee on Natural Resources

SUMMARY—Revises provisions governing public sales of livestock. (BDR 50-371)

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: 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 issue a limited license to conduct an annual sale of livestock under certain circumstances; imposing a fee for the issuance of the limited license; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law prohibits a person from holding, operating, conducting or carrying on a public livestock auction without first securing a license from the State Department of Agriculture. (NRS 573.020) Before the Department may issue a license to an operator of a public livestock auction, the applicant for the license must deliver to the Director of the Department: (1) a surety bond; (2) a bond approved by the Secretary of Agriculture of the United States; or (3) a deposit receipt. (NRS 573.030) A person who operates a public livestock auction without a license or any licensee authorized to operate a public livestock auction who violates any provision of chapter 573 of NRS governing public sales of livestock or any regulations adopted pursuant to that chapter is subject to: (1) the imposition of a restraining order; (2) punishment for a misdemeanor; and (3) payment of an additional administrative fine of not less than \$1,000 and not more than \$5,000 per violation. (NRS 573.185, 573.190)

In lieu of securing a license to operate a public livestock auction, **section 1** of this bill authorizes a person who wishes to conduct an annual sale of livestock to submit an application to the Department for the issuance of a limited license to conduct such a sale. **Section 2** of this bill defines an "annual sale of livestock" to mean any sale of livestock to which any member of the public may consign livestock for sale or exchange through public bidding and which is conducted for not more than 2 consecutive days during a calendar year. **Section 1** requires the Department to issue to the applicant a limited license to conduct an annual sale of



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livestock if the Department finds that the applicant has: (1) delivered to the Director of the Department a certain surety bond or deposit receipt; (2) paid the fee established by regulation of the State Board of Agriculture for the limited license; and (3) otherwise complied with the provisions of chapter 573 of NRS governing public sales of livestock. **Section 1** also requires the Department to limit the duration of any surety bond or deposit receipt to the period during which an annual sale of livestock is conducted and to set the surety bond or deposit receipt on the basis of specified criteria. **Section 11** of this bill authorizes the Department or a representative of the Department to enter the premises where an annual livestock sale is held to inspect the records of the annual livestock sale. **Sections 12 and 13** of this bill subject a person who conducts an annual sale of livestock to the imposition of a cease and desist order and a restraining order for certain violations. **Section 14** of this bill also makes such a person who commits those violations guilty of a misdemeanor and subject to the payment of an additional administrative fine. **Sections 3-10 and 15** of this bill make conforming changes.

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

Section 1. Chapter 573 of NRS is hereby amended by adding thereto a new section to read as follows:

1. In lieu of securing a license to hold, operate, conduct or carry on a public livestock auction pursuant to NRS 573.020, a person who wishes to conduct an annual sale of livestock may submit an application to the Department for the issuance of a limited license to conduct such a sale. The application must be submitted on a form furnished or approved by the Department and must include:

(a) The name and address of the applicant who will conduct the annual sale of livestock;

(b) The location of the establishment or premises where the applicant will conduct the annual sale of livestock; and

(c) Any other information required by the Department.

2. As soon as practicable after receiving an application pursuant to subsection 1, the Department shall issue a limited license to conduct an annual sale of livestock to the applicant if the Department finds that the applicant has:

(a) Delivered to the Director a surety bond pursuant to NRS 573.033 or a deposit receipt pursuant to NRS 573.037;

(b) Paid the fee established by regulation of the State Board of Agriculture for the limited license to conduct an annual sale of livestock; and

(c) Otherwise complied with the provisions of this chapter.

3. A limited license to conduct an annual sale of livestock is valid for the period for which it is issued. A person may not obtain more than one limited license to conduct an annual sale of livestock during the same calendar year.



4. *The Department shall:*

(a) *Limit the required duration of any surety bond or deposit receipt submitted pursuant to paragraph (a) of subsection 2 to the period during which the annual sale of livestock is conducted by the licensee.*

(b) *Set the amount of the surety bond or deposit receipt at an amount which must be:*

(1) *Less than the amount otherwise required pursuant to NRS 573.033 or 573.037; and*

(2) *Based on the amount of bond coverage calculated for a market agency pursuant to 9 C.F.R. § 201.30(a).*

Sec. 2. NRS 573.010 is hereby amended to read as follows:

573.010 As used in this chapter:

1. *“Annual sale of livestock” means any sale of livestock:*

(a) *To which any member of the public may consign livestock for sale or exchange through public bidding at the sale of the livestock; and*

(b) *Which is conducted for not more than 2 consecutive days during a calendar year.*

2. “Consignor” means any person consigning, shipping or delivering livestock to a public livestock auction for sale, resale or exchange.

~~12-1~~ 3. “Department” means the State Department of Agriculture.

~~13-1~~ 4. “Director” means the Director of the Department.

~~14-1~~ 5. “Livestock” means:

(a) Cattle, sheep, goats, horses, mules, asses, burros, swine or poultry; and

(b) Alternative livestock as defined in NRS 501.003.

~~15-1~~ 6. “Operator of a public livestock auction” means any person holding, conducting or carrying on a public livestock auction.

~~16-1~~ 7. “Public livestock auction” means any sale or exchange of livestock held by any person at an established place of business or premises where the livestock is assembled for sale or exchange, and is exchanged or sold at auction or upon a commission basis at regular or irregular intervals. *The term does not include an annual sale of livestock.*

Sec. 3. NRS 573.030 is hereby amended to read as follows:

573.030 Before a license is issued by the Department to an operator of a public livestock auction ~~H~~ *or a limited license is issued by the Department to conduct an annual sale of livestock,* the applicant must deliver to the Director:

1. A surety bond pursuant to the provisions of NRS 573.033;



2. ~~[A]~~ *In the case of a public livestock auction, a* bond approved by the Secretary of Agriculture of the United States pursuant to the provisions of NRS 573.035; or

3. A deposit receipt pursuant to the provisions of NRS 573.037.

Sec. 4. NRS 573.033 is hereby amended to read as follows:

573.033 1. ~~[H]~~ *Except as otherwise provided in section 1 of this act, if* an applicant delivers a surety bond to the Director pursuant to the provisions of subsection 1 of NRS 573.030 ~~[H]~~ *or section 1 of this act,* the surety bond must be:

(a) In the amount of \$200,000 or more but less than \$1,000,000.

(b) Executed by the applicant as principal and by a surety company qualified and authorized to do business in this state as surety.

(c) A standard form and approved by the Director as to terms and conditions.

(d) Conditioned that the principal will not commit any fraudulent act and will comply with the provisions of this chapter and the rules and regulations adopted by the Department.

(e) To the State of Nevada in favor of every consignor creditor whose livestock was handled or sold through or at the licensee's public livestock auction ~~[H]~~ *or annual sale of livestock, as applicable.*

2. The total and aggregate liability of the surety for all claims upon the bond must be limited to the face amount of the bond.

Sec. 5. NRS 573.037 is hereby amended to read as follows:

573.037 1. As authorized by subsection 3 of NRS 573.030 ~~[H]~~ *or section 1 of this act,* in lieu of filing the bond described in NRS 573.033 or 573.035, the applicant may deliver to the Director the receipt of a bank, credit union or trust company doing business in this state showing the deposit with that bank, credit union or trust company of cash or of securities endorsed in blank by the owner thereof and of a market value equal at least to the required principal amount of the bond, the cash or securities to be deposited in escrow under an agreement conditioned as in the case of a bond. A receipt must be accompanied by evidence that there are no unsatisfied judgments against the applicant of record in the county where the applicant resides.

2. An action for recovery against any such deposit may be brought in the same manner as in the case of an action for recovery on a bond filed under the provisions of this chapter.

3. ~~[H]~~ *Except as otherwise provided in section 1 of this act, if* any licensed operator of a public livestock auction *or holder of a limited license to conduct an annual sale of livestock* for any reason ceases to operate the auction ~~[H]~~ *or sale,* the amount of money



or securities deposited in lieu of a bond must be retained by the Department for 1 year. If 1 year after the cessation of the operation, no legal action has been commenced to recover against the money or securities, the amount thereof must be delivered to the owner thereof. If a legal action has been commenced within that period, all such money and securities must be held by the Director subject to the order of a court of competent jurisdiction.

Sec. 6. NRS 573.050 is hereby amended to read as follows:

573.050 Upon receipt of an application for a license *to operate a public livestock auction* under this chapter, accompanied by the required bond and license fee, the Department shall examine the application, and if it finds the application to be in proper form and that the applicant has otherwise complied with this chapter, the Director or his or her designee shall grant and sign the license as applied for, subject to the provisions of this chapter.

Sec. 7. NRS 573.070 is hereby amended to read as follows:

573.070 ~~{Licenses}~~ *A license to operate a public livestock auction* must be in such form as the Department may prescribe, and set forth:

1. The name and address of the operator of the public livestock auction.
2. The location of the establishment or premises licensed.
3. The kinds of livestock to be sold, exchanged or handled.
4. The period of the license.
5. The weekly or monthly sales day or days.
6. Such other information as the Department may determine.

Sec. 8. NRS 573.080 is hereby amended to read as follows:

573.080 ~~{Licenses}~~ *A license to operate a public livestock auction* must be renewed annually upon like application and procedure as in the case of *an* original ~~{Licenses.}~~ *license to operate a public livestock auction*. An application for *the* renewal *of the license* must be accompanied by:

1. A full audit completed not more than 2 months before the date of the application which must be signed and certified as correct by a holder of a live permit issued pursuant to chapter 628 of NRS.
2. The name and address of the bank or credit union where the custodial account for consignors' proceeds will be established and maintained by the operator of the public livestock auction in compliance with the provisions of NRS 573.104.

Sec. 9. NRS 573.125 is hereby amended to read as follows:

573.125 Each operator of a livestock auction *or person who conducts an annual sale of livestock* shall issue to each purchaser of livestock a receipt on a form approved by the Department, and the receipt must contain:

1. The name and address of the purchaser of the livestock.



2. A description of the livestock, which must include the number and kind, approximate age, the sex, and any visible brands or other distinguishing or identifying marks.

Sec. 10. NRS 573.130 is hereby amended to read as follows:

573.130 1. Livestock that is under quarantine because of any contagious, infectious or communicable disease must not be consigned to or sold through any public livestock auction ~~H~~ **or annual sale of livestock.**

2. Livestock that is known to be infected with, or known to have been exposed to, any contagious, infectious or parasitic livestock disease must not be consigned to or sold through any public livestock auction **or annual sale of livestock** except under rules and regulations governing the consignments and sales adopted by the Department.

3. The Department may require such testing, treating and examining of livestock sold, traded, exchanged or handled at or through public livestock auctions **or annual sales of livestock** as in its judgment may be necessary to prevent the spread of infectious, contagious or parasitic diseases among the livestock of this state.

4. The Department may require operators of public livestock auctions **or persons who conduct annual sales of livestock** to reimburse the Department for actual expenses or any part thereof incurred in testing, treating and examining livestock sold, traded, exchanged or handled at or through those auctions.

Sec. 11. NRS 573.160 is hereby amended to read as follows:

573.160 To carry out the provisions of this chapter and to conduct inspections pursuant thereto, the Department or any authorized representative thereof may enter the establishment or premises where any public livestock auction **or annual sale of livestock** is held and inspect the records thereof at all reasonable times.

Sec. 12. NRS 573.183 is hereby amended to read as follows:

573.183 If the Director determines, on the basis of any verified complaint or of any inspection or investigation made by him or her pursuant to this chapter, that any operator of a public livestock auction **or person who conducts an annual sale of livestock** is violating or is about to violate any provision of this chapter for the protection of consignor creditors, the Director may order:

1. The operator **or person** to cease and desist from:

(a) Receiving or selling any livestock;

(b) Receiving or disbursing any money; or

(c) Any practice which violates any provision of this chapter or any other law or any rule, order or regulation issued pursuant to law.



2. Any bank or credit union which holds the custodial account of the operator, as required by NRS 573.104, to refrain from paying out any money from the account.

➡ The order ceases to be effective upon the expiration of 3 days, excluding Saturdays, Sundays and other nonjudicial days, after its date of issuance unless a court has, pursuant to NRS 573.185, issued an order which continues the restraint.

Sec. 13. NRS 573.185 is hereby amended to read as follows:

573.185 If any ~~licensee~~ *operator of a public livestock auction or person who conducts an annual sale of livestock* has engaged or is about to engage in any acts or practices which violate or will violate any of the provisions of this chapter or the rules and regulations adopted by the Department, the district court of any county, on application of the Director, may issue an injunction or other appropriate order restraining that conduct. Proceedings under this section are governed by Rule 65 of the Nevada Rules of Civil Procedure, except that no bond or undertaking is required in any action commenced by the Director.

Sec. 14. NRS 573.190 is hereby amended to read as follows:

573.190 1. Any person who ~~operates~~ :

(a) *Operates* a public livestock auction without a license required by this chapter ~~[, or who violates]~~ ;

(b) *Conducts an annual sale of livestock without a limited license issued pursuant to section 1 of this act; or*

(c) *Violates* any of the provisions of this chapter or of any rules or regulations adopted pursuant thereto,

➡ is guilty of a misdemeanor and, in addition to any criminal penalty, shall pay to the Department an administrative fine of not less than \$1,000 and not more than \$5,000 per violation. If an administrative fine is imposed pursuant to this section, the costs of the proceeding, including investigative costs and attorney's fees, may be recovered by the Department.

2. Each day's operation in which livestock is sold or exchanged at any unlicensed public livestock auction *or annual sale of livestock* constitutes a separate offense.

3. Any money collected from the imposition of an administrative fine pursuant to subsection 1 must be accounted for separately and:

(a) Fifty percent of the money must be used to fund a program selected by the Director that provides loans to persons who are engaged in agriculture and who are 21 years of age or younger; and

(b) The remaining 50 percent of the money must be deposited in the Account for the Control of Weeds established by NRS 555.035.



Sec. 15. NRS 576.140 is hereby amended to read as follows:

576.140 Except as otherwise provided in NRS 576.042, the provisions of this chapter do not apply to:

1. The Nevada Mineral Exhibition, 4-H clubs, the Future Farmers of America, the Nevada Junior Livestock Show, the Nevada State Livestock Show, the Nevada Hereford Association, or any other nonprofit organization or association.

2. Any railroad transporting livestock interstate or intrastate.

3. Any farmer or rancher purchasing or receiving livestock for grazing, pasturing or feeding on his or her premises within the State of Nevada and not for immediate resale.

4. Operators of public livestock auctions as defined in NRS 573.010, and all buyers of livestock at those auctions at which the public livestock auction licensee does not control title or ownership to the livestock being sold or purchased at those auctions, and any person buying for interstate shipments only and subject to and operating under a bond required by the United States pursuant to the provisions of the Packers and Stockyards Act, 7 U.S.C. § 204, and the regulations adopted pursuant to those provisions.

5. *Persons who conduct annual sales of livestock as defined in NRS 573.010.*

6. Any farmer or rancher whose farm or ranch is located in the State of Nevada, who buys or receives farm products or livestock from another farmer or rancher not for immediate resale.

~~16.1~~ 7. Any retail merchant having a fixed and established place of business in this state and who conducts a retail business exclusively.

Sec. 16. This act becomes effective:

1. Upon passage and approval for the purposes of adopting regulations and any other preparatory administrative tasks that are necessary to carry out the provisions of this act; and

2. On July 1, 2019, for all other purposes.

