

SENATE BILL NO. 454—COMMITTEE ON FINANCE

(ON BEHALF OF THE OFFICE OF FINANCE
IN THE OFFICE OF THE GOVERNOR)

MAY 20, 2021

Referred to Committee on Natural Resources

SUMMARY—Revises provisions relating to agriculture.
(BDR 50-1102)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: Executive Budget.

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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 agriculture; authorizing the State Department of Agriculture to establish and collect certain fees; reducing certain periods for the rerecording of brands and marks from 4 years to 3 years; requiring certain applications to be submitted electronically or in writing; requiring certain notices to be sent electronically or in writing; requiring the Department to furnish certain owners with an electronic copy of certain certificates; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law regulates the use of brands and brands and marks in this State. (Chapter 564 of NRS) Existing law authorizes the State Department of Agriculture to establish and collect reasonable fees for certain actions involving brands or brands and marks. (NRS 564.080) **Section 1** of this bill authorizes the Department to establish and collect reasonable fees for the processing of applications for new brands or new brands and marks, regardless of whether the new brand or new brand or mark is awarded.

Existing law sets forth the process by which brands and marks may be rerecorded. Existing law requires any owner of a brand or brand and mark or marks of record to, at the end of each 4-year period after January 1, 1976, to rerecord the brand or brand and mark or marks. If an owner of any brands or brands and marks has not applied to rerecord the brands or brands and marks by January 1 of any 4-year period, the brands or brands and marks are deemed abandoned and no longer of legal record. (NRS 564.120) **Section 2** of this bill changes the 4-year periods to 3-year periods beginning on January 1, 2023.



Existing law requires an application for the rerecording of brands and marks to be made in writing and accompanied by any rerecording fee established by the Department. (NRS 564.120) **Section 2** requires an application to be submitted electronically through the Internet website of the Department or in writing on a form provided by the Department while retaining the requirement that the application be accompanied by any rerecording fee established by the Department.

Existing law requires the Department to notify every owner of a brand or brand and mark or marks of legal record of the owner's right to rerecord the brand or brand and mark or marks by a certain time. Existing law requires the notice to be in writing and sent by mail to each such owner at the owner's last address of record. (NRS 564.120) **Section 2** requires, at the discretion of the Department unless otherwise requested by an owner, the notice to be sent by electronic mail to each such owner or to be sent in writing by mail to each such owner to the owner's last electronic mail address or address of record, as applicable.

Existing law requires the Department to furnish the legal owners of any brand or brand and mark or marks rerecorded with a certificate setting forth the fact of the rerecording. (NRS 564.120) **Section 2** requires the Department to furnish an electronic copy of such a certificate to the legal owner of the brand or brand and mark or marks.

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

Section 1. NRS 564.080 is hereby amended to read as follows:

564.080 Except as otherwise provided in this chapter, the Department may establish and collect reasonable fees for:

1. *The processing of applications for new brands or new brands and marks, regardless of whether the new brand or new brand and mark is awarded;*

2. The recording of brands or brands and marks;

~~[2.]~~ 3. The rerecording of brands or brands and marks;

~~[3.]~~ 4. The recording of instruments transferring ownership of brands or brands and marks;

~~[4.]~~ 5. Certificates of recordation or rerecording of brands or brands and marks;

~~[5.]~~ 6. Amending the record of ownership of brands or brands and marks and furnishing amended certificates of recordation; or

~~[6.]~~ 7. The processing and continuing administration of a security agreement, provisional assignment or legal lien relating to a brand or brand and mark or marks of record for purposes of NRS 564.110.

Sec. 2. NRS 564.120 is hereby amended to read as follows:

564.120 1. Any owner of a brand or brand and mark or marks of record under the provisions of this chapter, including brands or marks transferred pursuant to the provisions of NRS 564.110, desiring legally to continue the use of the brand or brand and mark or marks beyond the prescribed dates shall, within 60 days before January 1, ~~[1976.]~~ 2023, and at the end of each ~~[4-year]~~ 3-year



period thereafter, apply to the Department for the rerecording of the brand or brand and mark or marks.

2. The application must be ~~made~~ :

(a) *Submitted electronically through the Internet website of the Department or in writing on a form provided by the Department;* and ~~accompanied~~

(b) *Accompanied* by any rerecording fee established by the Department in accordance with the provisions of NRS 564.080.

3. The Department shall notify every owner of a brand or brand and mark or marks of legal record in its office, including owners of brands and marks transferred under the provisions of NRS 564.110, at least 60 days before January 1, ~~1976,~~ 2023, and January 1 at the end of each ~~4-year~~ 3-year period thereafter, of the owner's right to rerecord the brand or brand and mark or marks as provided in this section. ~~The~~ *At the discretion of the Department unless otherwise requested by an owner, the* notice must be *sent by electronic mail to each such owner or be sent* in writing ~~and sent~~ by mail to each such owner at the owner's last *electronic mail address or* address of record ~~in the office of~~, *as applicable, provided to* the Department ~~by the owner~~. The notice is complete at the expiration of 60 days after the date of its ~~mailing~~ *sending* by the Department.

4. The Department may also advertise the approach of any rerecording period in such manner and at such times as it deems advisable.

5. Any brands or brands and marks for the rerecording of which the owners have not applied as provided for in this section by January 1, ~~1976,~~ 2023, or by January 1 of any ~~4-year~~ 3-year period after that date, including all brands and marks of record as transferred as provided in NRS 564.110, shall be deemed abandoned and no longer of legal record as provided for by this chapter. Brands or brands and marks thus abandoned may not be awarded or recorded by the Department to persons other than those persons abandoning the brands or brands and marks until 1 year after the date of the abandonment. The awarding and recording of abandoned brands or brands and marks to any person must be in accordance with the provisions of this chapter.

6. The Department shall furnish the legal owners of any brand or brand and mark or marks rerecorded under the provisions of this section with *an electronic copy of* a certificate setting forth the fact of the rerecording.

7. No new brands may be recorded during the 60 days of a rerecording period unless, in the opinion of the Director, undue hardship would be caused the applicant.



1 **Sec. 3.** This act becomes effective upon passage and approval.

