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REQUIRES TWO-THIRDS MAJORITY VOTE

EXEMPT

(§§ 1, 1.5, 2)

(Reprinted with amendments adopted on May 24, 2021)

FIRST REPRINT

S.B. 454

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; requiring an applicant for the recording or rerecording of a brand, or brand and marks, or marks to pay a certain fee; authorizing the State Department of Agriculture to establish and collect certain other fees; increasing certain periods for the rerecording of brands and marks from 4 years to 5 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:

- 1 Existing law regulates the use of brands and brands and marks in this State.
- 2 (Chapter 564 of NRS) Existing law authorizes the State Department of Agriculture
- 3 to establish and collect reasonable fees for certain actions involving brands or
- 4 brands and marks. (NRS 564.080) Existing regulations establish a fee for recording
- 5 and rerecording a brand, or brand and mark, or marks of \$120. (NAC 564.010)
- 6 **Section 1** of this bill revises the fee for recording a brand, or brand and mark, or
- 7 marks to be \$200. **Section 1.5** of this bill: (1) removes the authority of the
- 8 Department to establish reasonable fees for the recording or the rerecording of
- 9 brands or brands and marks; and (2) authorizes the Department to establish and
- 10 collect reasonable fees for the processing of applications for new brands or new



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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 5-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: (1) submitted electronically through the Internet website of the Department or in writing on a form provided by the Department; and (2) accompanied by a rerecording fee of \$200.

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 564.040 is hereby amended to read as follows:

564.040 1. Any owner of animals in this State desiring to adopt and use thereupon any brand, or brand and mark, or marks, as provided for in this chapter shall, before doing so, forward to the Department an application, on a form approved and provided by the Department for that purpose, for the recording of the brand, or brand and mark or marks, and receive a certificate of recordation as provided in this chapter.

2. The application must:

(a) Include a drawing, exact except as to size, of the brand, together with any earmarks or other marks desired or intended to be used therewith, and the location upon the animal or animals concerned where the brand and earmarks or other marks are desired or intended to be used;

(b) Include a statement of the kinds of animals upon which the brand or brand and mark or marks are used or will be used;



(c) Include a statement of the approximate boundaries of that part of the State within which it is intended to use the brand, brand and mark or marks; ~~and~~

(d) Include the full name and address of the applicant ~~{};~~ and

(e) Be accompanied by a fee of \$200 for the recording of the brand, or brand and mark, or marks. The fee must not be prorated for any unused portion of the period for which the brand, or brand and mark, or marks are recorded.

3. For the purpose of this chapter, the post office address included in the application must be considered the legal address of the applicant until the Department receives from the applicant, in writing, a notice of the change of the address, the latest address of record with the Department remaining the legal address.

Sec. 1.5. 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 recording of brands or brands and marks;~~
- ~~—2. The rerecording of brands or brands and marks;~~
- ~~—3. 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 instruments transferring ownership of brands or brands and marks;

~~4.~~ 3. Certificates of recordation or rerecording of brands or brands and marks;

~~5.~~ 4. Amending the record of ownership of brands or brands and marks and furnishing amended certificates of recordation; or

~~6.~~ 5. 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~~ 5-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]~~ a rerecording fee ~~[established by the Department in accordance with the provisions of NRS 564.080.]~~ of \$200. The fee must not be prorated for any unused portion of the period for which the brand, or brand and mark, or marks are rerecorded.

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]~~ 5-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]~~ 5-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.

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

