

Enrolled Senate Bill 236

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CHAPTER

AN ACT

Relating to brands; creating new provisions; amending ORS 599.269, 603.075, 604.005, 604.046, 604.066, 604.071 and 604.992; and declaring an emergency.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 604.005 is amended to read:

604.005. As used in this chapter, unless the context requires otherwise:

(1) "Brand" means a distinctive design, mark or other means of identification applied to a designated location of the hide, wool or skin of livestock, by methods prescribed by administrative rule of the State Department of Agriculture promulgated pursuant to ORS chapter 183.

(2) "Brand inspection" means the department's:

(a) Examination of the brands, tags, breed, flesh marks including dewlaps and wattles, earmarks, coloring, sex, age or other distinguishing characteristics of livestock;

(b) Examination of documents and other evidence of ownership or right to possession of livestock; and

(c) Issuance or refusal to issue a brand inspection certificate.

(3) "Brand inspection certificate" means a document issued by the department [*which shall only be*] **that is** valid for eight days, unless otherwise specified therein, and [*which*] **that** includes:

(a) The date and place of issuance;

(b) The quantity of livestock inspected and a description of the distinguishing characteristics of hides or of livestock examined, including brands, tags, breed and sex;

(c) The name and address of the person to whom issued and the name and address of the owner;

(d) [*The destination of the livestock, if transportation thereof is to take place;*] **If the livestock are to be transported, the destination;**

(e) A statement of any limitation on the use of the certificate, or on its period of validity; and

(f) A signed certification of the department's brand inspector that the brand inspector has examined the described hides or livestock and documents associated therewith and that to the best of the inspector's knowledge the hides or livestock are owned or in the lawful possession of the person presenting the hides or livestock for brand inspection.

(4) "Custom slaughtering establishment" shall have the meaning set forth in ORS 603.010.

(5) "Department" means the State Department of Agriculture.

(6) "Document of title" shall have the meaning set forth in ORS 71.2010.

(7) "**Equidae**" means a horse, mule or ass.

[(7)] (8) "Livestock" means cattle, [horses, mules, asses] **Equidae, sheep** and any other animals designated by the administrative rule of the department[, and for the purposes of ORS 604.027 and 604.056 shall include sheep].

[(8)] (9) "Livestock auction market" shall have the meaning set forth in ORS 599.205.

[(9)] (10) "Livestock carrier" means the person who transports livestock by rail, motor vehicle, boat, aircraft or on the hoof, either as a common carrier who is available to the public to perform this service for compensation, as a contract carrier who enters into agreements with specific individuals to perform this service for compensation, or as a private carrier who performs this service without compensation as an owner, lessee or bailee of livestock.

[(10)] (11) "Slaughterhouse" shall have the meaning set forth in ORS 603.010.

SECTION 2. ORS 604.046 is amended to read:

604.046. (1) Brand inspection and the issuance of a brand inspection certificate is required in this state [in the following instances] **for:**

(a) [Livestock] **Cattle** to be transported from any place in this state to or through any place outside of this state;

(b) [Livestock] **Cattle** to be transported from any place in this state to a range or pastureland outside of this state and destined to be ultimately returned to this state;

(c) Except as provided in subsection [(5)(c)] (5)(b) of this section, [livestock] **cattle** destined for sale or slaughter at any livestock auction market or other sales facility or slaughterhouse in this state, and prior to such sale or slaughter; and

(d) [In order to prevent fraud or dishonesty being perpetrated upon livestock purchasers of this state, livestock] **Except as provided in subsection (5)(a) of this section, cattle** transported from any place outside of this state to any livestock auction market or other sales facility or slaughterhouse in this state for sale within this state[, unless exempted therefrom under subsection (5)(b) of this section].

(2) Brand inspection may be performed, upon request of the owner or person in possession of livestock, at either a regular brand inspection location or a place designated by the person requesting the brand inspection. [In the latter case,] The State Department of Agriculture may require payment of its time and travel costs as a condition to performing the brand inspection. [In the event the requested brand inspection is at a place other than an auction market or registered feedlot,] The department [shall] **may** also assess and collect a service fee [of \$10], **not to exceed \$25.**

(3) In addition to brand inspections under subsections (1) and (2) of this section, the department [is also authorized to] **may** establish and carry out a system of brand inspection at the times and places as an intrastate, regional movement of cattle takes place, or as a change of ownership takes place. In establishing any system authorized by this [section] **subsection**, the department shall consider the customs, practices and theft or ownership problems of the [livestock] **cattle** industry, the economic feasibility of carrying out a system, the volume of [livestock] **cattle** movement within the state or within specific areas of the state, the laws and regulations of the United States and the desirability for a system as evidenced by a majority of persons who would be affected by the system. Such a system, established in accordance with the provisions of ORS chapter 183, may include:

(a) That the brand inspection may be in addition to or in lieu of other brand inspections required or allowed by this chapter and the circumstances or conditions under which the alternatives shall be allowed;

(b) The times and places the brand inspection shall take place in relation to the time of movement or location change, or the change of ownership;

(c) The establishment of a brand inspection fee and the person responsible for payment thereof;

(d) The establishment of geographic, regional or political areas within the state in which brand inspection is required; and

(e) The circumstances or conditions under which an exemption from or modification of the system's requirements may be allowed, considering their feasibility in relation to movement or sale of minimum numbers of [livestock] **cattle.**

(4) In addition to brand inspections under subsections (1)[, (2) and] **to** (3) of this section, the department [*is also authorized to*] **may** inspect any hides or livestock at any time, and at any public or private place, building or livestock carrier, if there is a need to identify diseased or suspected diseased livestock, or if [*there is reasonable cause or suspicion to believe*] **the department reasonably suspects that** any provisions of this chapter, [*or*] the administrative rules [*thereunder, or of*] **adopted under this chapter or** any criminal laws relating to the possession of livestock, are being violated. This authority is in addition to any authority granted police officers, the department's brand inspectors, livestock police officers and investigative officers under ORS 133.525 to 133.703 relating to search and seizures. **The department may undertake any of the actions described in ORS 604.056 (1) if:**

(a) An inspection results in a finding that a brand inspection certificate accompanying the hides or livestock is false, erroneous or incomplete in any material respect[, or if];

(b) There is a question [*of*] whether the person in possession **of the hides or livestock** is the owner [*of the hides or livestock or is in lawful possession thereof, or if*] **or a lawful possessor; or**

(c) The person in possession of the livestock fails to submit evidence requested under ORS 604.051 (1)[, *the department may undertake any of the actions described in ORS 604.056*].

(5) In lieu of the brand inspection and the issuance of a brand inspection certificate required by subsection (1) of this section[, *an alternative document specified hereafter may accompany livestock in each of the following instances*]:

[*(a) Horses, when accompanied by a special nontransferable brand inspection certificate identifying such horses and issued by the department for an indeterminate time to the owner of the horses;*]

[*(b) (a) [Livestock] Cattle that are* transported to any slaughterhouse in this state from any place outside this state, if entering this state **may be** accompanied by a brand inspection certificate or similar document issued by the other state, provided that such other state has brand inspection comparable to the inspection of this state; or

[*(c) (b) Cattle, in lots not to exceed 15 head, presented by one person for slaughter at [any] a slaughterhouse [when] may be* accompanied by a special slaughterhouse certificate issued by the department for which a fee, **equal to the brand inspection fee** established by the department under ORS 604.066 (2), has been paid.

(6) Brand inspection at slaughtering establishments or other facilities where cattle are slaughtered or cattle hides are received, may be required of cattle hides under a system established by the department in accordance with the provisions of ORS chapter 183. In establishing any system authorized by this [*section*] **subsection**, the department shall consider theft or ownership problems associated with slaughtered cattle, the economic feasibility of carrying out the system, the attitudes of the affected members of the [*livestock*] **cattle** industry of this state, the volume of slaughtered cattle within the state or within specific areas of the state, and the laws and regulations of the United States. Any system established under this [*section*] **subsection** may include:

(a) The designation of geographic, regional or political areas within the state in which cattle hide inspection is required;

(b) The use of tags, stamps or other devices evidencing ownership of the cattle slaughtered; and

(c) The methods, locations and times for cattle hide inspection.

(7) By written agreement with the appropriate agencies in the States of California, Nevada, Idaho or Washington, the department may recognize brand inspections performed in any of such other states in lieu of the brand inspections required by this chapter. Any such agreement shall provide that recognition of brand inspections of any such other state shall be effective only while brand inspections performed pursuant to this chapter are recognized in such other state.

SECTION 3. ORS 604.066 is amended to read:

604.066. (1) Except as provided in subsection (2) of this section, the State Department of Agriculture shall charge and collect a brand inspection fee in accordance with the following:

[*(a) \$20 for the brand inspection described in ORS 604.046 (5)(a); or*]

(a) \$30 for a lifetime brand inspection for Equidae;

(b) \$10 per head for a brand inspection for Equidae, if the brand inspection certificate utilized is valid for more than eight days but less than a lifetime; or

[(b)] (c) [\$5] \$10 per head for a brand inspection [when] on livestock other than Equidae, if the brand inspection certificate utilized is valid for [a period in excess of] more than eight days.

(2) In accordance with the provisions of ORS chapter 183, the department shall establish a brand inspection fee *[of]* **on cattle and cattle hides for which a brand inspection certificate is valid for eight days. The fee shall be** not less than *[50]* **85 cents** and not more than *[75 cents]* **\$1** per head of cattle *[or per cattle hide, and of not more than \$3.75 per head of horses, mules and asses]* **and not more than \$2 per hide.**

(3) *[The brand inspection fee, including assessments under ORS 577.512, shall be paid to the department by]* **Except as provided in this subsection or subsection (4) of this section,** the person requesting or requiring brand inspection to be performed **shall pay the State Department of Agriculture a brand inspection fee and the assessments authorized under ORS 577.512.** Livestock auction markets, slaughterhouses and custom slaughtering establishments at which brand inspection is performed shall collect the fees *[therefor and forthwith pay]* **and assessments and forward** them to the department. *[A brand inspection fee may not be collected by livestock auction markets on livestock]* **The person requesting or requiring brand inspection for cattle delivered to a livestock auction market is not required to pay a brand inspection fee on cattle** whose value is \$10 or less.*[, unless the animal is destined for slaughter or shipment out of this state or on]* **The person requesting or requiring brand inspection is not required to pay a brand inspection fee on cattle** not more than 90 days of age that are to be transported **with their mothers** to a range or pastureland outside of this state. *[However, any assessments under ORS 577.512 are still payable to the department.]*

(4) **The person requesting or requiring brand inspection is not required to pay a brand inspection fee or pay assessments** *[A person may claim a refund of brand inspection fees paid on Oregon livestock]* **when Oregon cattle are being** transported from any place in this state to any place outside of this state and then returned to this state, if the movement is continuous without unloading enroute, is done in the usual course of ranch operations and is not related to a change of ownership. *[The refund may be claimed only for brand inspection fees paid on the identical livestock transported. A written claim for refund shall be submitted to the department within 90 days from the initiation of the livestock movement, accompanied by an affidavit prescribed by the department confirming the circumstances set forth in this paragraph.]*

(5) Except as provided in ORS 577.512, the department shall deposit all fees paid to it under this chapter in the State Treasury to the credit of the Department of Agriculture Service Fund, and such fees are continuously appropriated to the department for administering and enforcing this chapter. The provisions of ORS 561.144 apply to such fees.

SECTION 4. ORS 604.071 is amended to read:

604.071. *[No person shall]* **A person may not:**

(1) Purchase, sell, handle or transport hides or livestock in violation of ORS 604.005 to 604.071, 604.640, 604.650 and 604.670 or the administrative rules promulgated thereunder;

(2) While marking livestock on the ear, either cut, mark or remove more than one-half of the ear;

(3) Except for the normal sheepshearing process, cut, burn or otherwise obliterate or disfigure the brand, earmark, dewlap or other distinguishing characteristics upon hides or livestock;

(4) Purchase, sell or hold for sale any hides or livestock in the condition described in subsection (3) of this section;

(5) As a custom slaughterer, fail to identify livestock hides and the persons from whom they were obtained;

(6) **Apply an unrecorded brand on livestock;**

(7) Use a recorded brand or similar design on livestock unless the person is the current recorded holder *[thereof]* **of the brand,** or use a brand recorded in another state, except in accordance with rules adopted by the State Department of Agriculture;

[(7)] **(8)(a)** Transport [*livestock*] **cattle** out of this state without a brand inspection certificate having been issued to the person presenting the [*livestock*] **cattle** for transport[, or];

(b) Fail to have a document identifying each load of [*livestock*] **transported cattle** as a part of the [*livestock*] **cattle** described on the brand inspection certificate accompanying each load[,]; or

(c) Fail to deliver the brand inspection certificate to the [*livestock*] consignee upon **the transported cattle** reaching the intended destination;

[(8)] **(9)** Refuse to permit the department to inspect hides or livestock, or refuse to permit hides or livestock to be sheared or otherwise handled so as to enable the department to determine the brands thereon; [or]

[(9)] **(10)** Knowingly make or issue any false, misleading or incomplete certificate, affidavit, application, proof of claim, document of title or other written instrument required or allowed under the provisions of ORS 604.005 to 604.071, 604.640, 604.650 and 604.670[.]; or

(11) Knowingly present cattle for brand inspection that are not owned by the person requesting the inspection.

SECTION 5. ORS 604.992 is amended to read:

604.992. (1) Violation of any of the provisions of this chapter, or the administrative rules or orders promulgated thereunder, is a Class B misdemeanor.

(2) Notwithstanding ORS 14.030 to 14.080, an action for violation of brand inspection requirements may be commenced and tried in either the county where the [*livestock*] **cattle** movement originated or the county where the [*livestock*] **cattle** movement terminated.

SECTION 6. ORS 599.269 is amended to read:

599.269. Before any livestock auction market can sell cattle[, *horses or other livestock*] as designated by the State Department of Agriculture, at an auction open to public bidding, or on consignment or commission basis, a brand inspector shall be present to carry out the brand inspection provisions of ORS chapter 604 and this chapter. It is necessary therefor that the department recover at least in part its actual costs of maintaining such inspection and related services. During any 24-hour period if the brand inspection fees [*which*] **that** the department is authorized to collect through and in a livestock auction market under ORS chapter 604 do not total \$50, the livestock auction market licensee shall include and at the same time pay to the department the difference between the actual brand inspection total fees collected and \$50. This section also applies to sales by breed or livestock associations, fairs or other groups, but does not apply to sales by Future Farmer or 4-H groups.

SECTION 7. ORS 603.075 is amended to read:

603.075. **The State Department of Agriculture may impose on** any establishment required by the laws of this state to have brand inspection [*shall after the first service call during a calendar week pay to the State Department of Agriculture for such subsequent services the fees*] **the service fee** established under ORS [604.066 (2), *which shall not be less than the fees equivalent to the inspection of five head of livestock per service call*] **604.046 (2)**. Such [*fees are*] **fee is** appropriated as set forth in ORS chapter 604. [*For the purposes of this section a calendar week is defined as the period commencing at 12:01 a.m. on Sunday and ending at 12 midnight Saturday.*] **Notwithstanding ORS 604.046 (2), the department may waive the service fee under circumstances the department deems appropriate.**

SECTION 8. The amendments to ORS 599.269, 603.075, 604.005, 604.046, 604.066, 604.071 and 604.992 by sections 1 to 7 of this 2007 Act apply to brand inspections conducted, and brand inspection certificates issued, on or after July 1, 2007.

SECTION 9. This 2007 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2007 Act takes effect on its passage.

Passed by Senate April 3, 2007

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Secretary of Senate

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President of Senate

Passed by House May 10, 2007

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Speaker of House

Received by Governor:

.....M,....., 2007

Approved:

.....M,....., 2007

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Governor

Filed in Office of Secretary of State:

.....M,....., 2007

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Secretary of State